Writ Petition No. 136 / 2008

List of Dates / Events

Date	Events	Page No.
11-7-1949	Mining concession TC No. 6/49 (70 ha) is granted to R-11 by Portuguese Government for manganese & ore on Sy. Nos. 41(p), 43(p), 44(p), 45(p), 46(p), 54(p), 55, 56, 57(p), 58(p), 59(p), 67(p), 68(p), 69 & 70.	
1980	Forest Conservation Act comes into force. S. 2 (iii) requires that prior clearance is obtained from the Ministry of Environment & Forests for renewal of the lease. (Sy No 57 is shown in Govt records as partly forest land)	p. 34
23-5-1987	All mining concessions are abolished and converted to leases w.e.f. 20.12.1961 as per Goa Mining Concessions (Abolition & Declaration as Leases) Act 1987. Lessees to apply for renewal within 6 months / 1 year.	
21-11-1988	R-11 applies for renewal of lease for 10 years.	
23-1-1990	Govt of India approves renewal of lease for 10 years.	
5-6-1990	Lease is renewed for 10 years from 22/11/87 to 21/11/97.	
7-12-1990	Lease Deed signed between State Govt and R-11.	
25-1-1994	Environment Impact Assessment Notification is issued by Govt of India under Environment Protection Act. Environment Clearance is required for new projects and expansion of existing ones (includes mining).	
15-10-1996	R-11 applies to State Govt for renewal of lease for 10 years from 1997 – 2007. Application is pending.	
1997 - 1999	The Sawant Committee (appointed by the State Govt to identify forests as per Supreme Court Order dated 12-12-96 in T. N. Godavarman v/s UOI) identifies Sy No 57(p) and Sy No. 68(p) as private forests.	
2-7-2003	High Court directs that no change in land use or any development will be permitted on the Sy. Nos. identified as forest in the Sawant / Karapurkar Committee reports.	p. 41
12-2-2005	Supreme Court directs Ministry of Environment to close defaulting units who continue to operate without environment clearance in violation of EIA Notification.	p. 65
31-8-2005	Public hearing is held in connection with R-11's application for environment clearance under EIA Notification.	

11-11-2005	Consent to Establish is issued by Pollution Control Board	
2006	Forest department demarcates the forest land on Sy Nos 57(p) and 68(p) of the lease. Entire Sy No 68(p) within lease area is demarcated as forest, while in Sy No 57(p) the eastern boundary beyond the nullah is demarcated as forest.	p. 158
10-11-2006	R-11 applies to State Govt. for further renewal of lease. Application is under consideration.	
19/20-1-2007	Environment Appraisal Committee recommends grant of environment clearance. The Minutes record that "no forest land is involved".	p. 53
12-3-2007	Environment Clearance is issued by Ministry of Environment. EC records that "no forest land is involved".	p. 54
2007	Forest Dept inspection records that a lot of dumping has been done in the area identified as private forests.	p. 47
27-3-2007	Mines Dept site inspection report (ref. villagers' complaints of damage to agriculture, nullahs etc)	p. 137
19-4-2007	Zonal Agricultural Officer's site inspection report.	p. 60
17-5-2007	Mines Dept site inspection report.	p. 143
13-10-2007	Dy. Collector convenes meeting to consider villagers' opposition to the mining activity.	p. 149
2-3-2008	Director of Mines writes to Chief Conservator of Forests to take action for violation of forest laws / court orders.	p. 224
3-2-2008	Gram Sabha of Colomba village passes resolution opposing operation of mines in the village.	p. 64
11-2-2008	Pollution Control Board issues Consent to Operate to R-11.	
14-3-2008	Board issues show cause to R-11 for revocation / recall of Consent to Operate as prior forest clearance is not obtained.	p. 206
20-3-2008	R-11 informs Board that no mining is carried out in the forest area.	p. 208
28-3-2008	Board seeks clarification from Forest Dept whether mining can be carried out on the lease outside the forest area.	p. 210
17-4-2008	Forest Dept clarifies that Central Govt approval under Forest Conservation Act is required for approval of any mining lease where forest is involved in the lease. It also informs that the lease has both Govt forest & private forest land and that no application for forest clearance has been submitted by R-11 or granted to it.	p. 225

17-6-2008	Pollution Control Board writes to Director of Mines and Dept of Science, Tech & Environment to take action in view of clarification from Forest Dept.	p. 226
7-10-2008	Pollution Control Board renews Consent to Operate till 31/7/2010.	p. 228
24-10-2008	Ministry of Environment seeks clarification from R-11 for non-disclosure of forest land on the lease / mis-representation of facts in his application for environment clearance.	p. 227

To be taken up at final hearing

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

GOA BENCH, AT PANAJI

Miscellaneous Civil Appln. No. 631 of 2008

in

Writ Petition No. 136 of 2008

Rama Ladu Velip & ors.)... Applicant/Petitioners

v/s

State of Goa and ors)..:. Respondents

INDEX

Sr.No.	Description	PAGES
1.	Memo of application with affidavit	1-9
2.	Annexure A: Order dated 22.4.2008	10-12
3.	Annexure B: Affidavit and show cause notice issued by SPCB	13-20
4.	Annexure C: Forest Dept letter of 17.4.08	21-22
5.	Annexure D colly: Letters dated 15.7.08 and 16.7.08	23-24
6.	Annexure E: SPCB letter dated 17.6.08	25
7.	Annexure F: Dept of Mines letter dated 2.03.2008	26

Panaji dated 14 Aug. 2008 Advocate for petitioners

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
GOA BENCH, AT PANAJI

Miscellaneous Civil Appln. No. 631 of 2008
in
Writ Petition No. 136 of 2008

The Goa Foundation)..Applicants

in

1. Rama Ladu Velip, r/o
Colomba village, Sanguem, Goa.

2. A. Prabhudesai, r/o
Colomba village, Sanguem, Goa

3. Goa Foundation, a society registered under
the Societies Registration Act, 1960,
through its Secretary, Dr. Claude Alvares,
and having its registered office
at Room 7, Above Mapusa Clinic,
Mapusa, Goa ..Petitioners

v/s.

1. State of Goa through
its Chief Secretary
Government of Goa,
Secretariat, Porvorim, Goa.

2. Union of India through Secretary,
Ministry of Environment & Forests,
Government of India, Paryavaran Bhavan,
CGO Complex, Lodi Road,
New Delhi 110 003.

3. The Secretary, Ministry of Mines,
Government of India,
Udyog Bhavan,
New Delhi

4. Chief Town Planner,
Government of Goa,
Town and Country Planning Dept.,
Panaji, Goa.

5. The Chief Conservator of Forests,
Forest Department,
Gomantak Maratha Mandir,
Panaji, Goa.

6. The Goa State Pollution Control Board
through its member secretary,
Dempo Tower, Patto, Panaji, Goa.

7. The Director of Mines & Geology,
Udyog Bhavan,
Panaji, Goa.

8. The Regional Controller of Mines,
Fatorda, Margao, Goa.

9. The Collector, South Goa,
Office of the Collector,
Margao, Goa.

10. Panchayat of Colomba-Rivona
through its Secretary,
Colomba, Sanguem, Goa

11. Hiralal Khodidas, Mine Owner,
Caza Auto Moderna ,
Curchorem, Goa - 403 706

12. Sociedade Fomento Industrial,
Villa Flores, EC Street,
Margao, Goa ....Respondents

MAY IT PLEASE YOUR LORDSHIPS

1. The above writ petition, which concerns activities on a mining lease having private forest on it and which yet does not have approval of the Central Government under the provisions of the Forest Conservation Act, 1980, was admitted by this Hon'ble Court by its order dated 22.4.2008. By the same order, interim relief for stay of the mining operations was rejected. This Hon'ble Court took the view that the respondent state will act in accordance with section 2 of the FCA, 1980 when it eventually passes orders pertaining to

the renewal of the impugned lease. Copy of the said order dated 22.4.2008 is hereto annexed to this application as ***Annexure A***.

2. The respondent Pollution Control Board had filed an affidavit in the matter stating that on learning that forest land was involved, it had issued Show Cause notice to the respondent mining company as to why its consent to operate should not be revoked / recalled until FCA clearance is obtained. The affidavit also stated that on receipt of the reply to the show cause notice from the mining company, the Board had addressed a communication dated 28/3/2008 to the Chief Conservator of Forests to clarify whether the mining operations can be carried on outside the forest area without the lease having the necessary forest clearance. The affidavit also informed the Court that the Chief Conservator of Forests was yet to reply and that a decision in respect of the show cause notice would be taken by the Board upon receipt of the reply from the CCF. Copies of the affidavit of the Board and show cause notice are hereto annexed to this petition as ***Annexure B***.

3. Recently, on coming to know that the Forest Department had indeed replied to the Board's letter dated 28/3/2008, applicant filed request under the RTI Act for a copy of the Forest Department's reply. Copy of the Forest Department's letter dated 17/4/2008 was thereafter issued to the applicant on 30/6/2008 and is herewith annexed as ***Annexure C***.

4. Applicant submits that from a perusal of the said letter of clarification, it is apparent that the Forest Department has confirmed that as per the law and rules in force and the Supreme Court's orders, no mining can be conducted on any mining lease where forest is involved without prior clearance of the central government under the FCA, 1980. The Forest Department has also categorically stated that the lease in question has not been cleared by the Department under the provisions of the FCA, 1980 and no application for the same has even been made.

5. The letter of the CCF is dated 17.4.2008. The writ petition was heard on admission and interim reliefs on 22.4.2008. When this Court heard the matter and passed its order dated 22.4.2008, this letter was not produced before the Court either by the Resp No. 5 (CCF) or the Resp No 6 (Pollution Control Board), although it was in the know of the government and also material to the proceedings before the Court. In fact, the contents of the letter are at variance with the position represented to the Court by the Govt on 22.4.2008.

6. After receiving the copy of the Forest Department's clarification letter, applicant made a fresh request to the Board by letter dated 15.7.2008, seeking to know now whether any decision had been taken by the Board on its Show Cause notice, in view of the clarification sought and now received from the Forest Department. By its letter dated 16.7.2008, the Board informed the applicant that vide letter dated 17.6.2008, it had requested that necessary action

be initiated as per FCA. Copies of letters dated 15.7.08 and 16.7.08 are annexed to this application as ***Annexure D colly***.

7. Applicant has subsequently obtained letter dated 17th June. 17.6.08 which is addressed by the Board to the Department of Mines and Geology and to the Department of Science, Technology and Environment, requesting them to take further necessary action in this matter in view of the clarification issued by the CCF. Copy of the letter dated 17.6.2008 is at ***Annexure E***.

8. It appears from the documents received by the applicant that the Board has not withdrawn its consent, but has merely written to other government authorities requesting them to initiate action against Resp. No. 11.

9. Applicant has also examined the files dealing with the mining lease of Resp. No. 11 at the Department of Mines & Geology and from the record it appears that even earlier, on 28.2.2008, the Forest Department had written to the Department of Mines and Geology to close the mine in view of forest violations. The reply of the Department of Mines, dated 2.03.2008, annexed to this application as ***Annexure F***, indicates the Department is not empowered to take action against the mining activity under the MMRD Act, 1957.

10. It is thus amply clear that none of the statutory authorities is willing to take the necessary decision regarding continued operation

of this mine despite the clarification issued by the Forest Department that the lease does not have forestry clearance. Instead, they are busy passing the buck to each other in the matter, even though the issue involves violation of the orders of the apex court and the provisions of the FCA, 1980.

11. Applicant also draws to the attention of this Hon'ble Court that the lease also has Government forest on it, a fact which applicant came to know only from perusal of the Forest Department's clarificatory letter dated 17.4.2008 (which applicant received under the RTI Act on 30.6.2008). Despite the fact that the lease has Government forest in addition to private forest and despite the fact that the lease has not been cleared from the forestry angle under the provisions of the FCA, 1980 nor has the mining company even filed an application for the same, the Forest Department too is not taking any action to halt the mining activity of the Respondent No. 11.

12. As per the provisions of section 24A of the Mineral Concession Rules, 1960, the State Government need not take any decision on the renewal application of the respondent for another twenty years as the lease is deemed extended from 22.11.2007 till the state government passes an order thereon. In several cases, the state government has passed orders on renewal applications in the 19th year of the period of the lease! This would enable the party concerned to continue to operate the mine in violation of the

provisions of the FCA, 1980 and the order of the apex court dated 12.12.1996.

13. In view of the fact that the crucial letter dated 17.04.2008 was not produced before this Court by the Government, and in view of its contents, applicants are now seeking modification of the order dated 22.4.2008. Applicants are seeking a stay on the further operation of the Board's consent order dated 11.2.2008, as the Board ought to recall its consent to operate but is not doing do. Applicants apprehend that the order dated 22.4.2008 may in fact be used as an excuse by the Board not to take the necessary decision to withdraw the Consent to Operate.

14. Since violation of the FCA, 1980 is involved and also violation of the order of the Supreme Court dated 12.12.1996, it would be in the interests of protection of the environment and the rule of law if the respondents are directed to take actions as required under the provisions of the Forest Conservation Act, 1980.

Prayers:

15. Petitioner is therefore approaching this Hon'ble High Court for the following directions:

i) For a stay of further operation of the consent order dated 11.2.2008 issued by the Respondent Board.

ii) For an order restraining Respondent Nos 11 and 12 from operating the lease until approval of the Central Government is obtained under the Forest Conservation Act for diversion of the forest land on the lease to non-forest purpose.

Or, in the alternative,

iii) For a direction to the Pollution Control Board to take decision within a time-frame regarding its consent order dated 11.2.2008. on its Show Cause dated 14/3/2008

iv) For a direction to the Government of Goa to take a decision within a time-frame on the renewal application of the Respondent No.11.

v) For any other reliefs this Hon'ble Court may be pleased to grant.

Panaji

Dated: Advocate for Applicant

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
GOA BENCH, AT PANAJI

Miscellaneous Civil Appln. No. _____ of 2008
in
Writ Petition No. 136 of 2008

Rama Ladu Velip & ors. ..Petitioners
v/s
State of Goa and ors ..Respondents

AFFIDAVIT IN SUPPORT OF APPLICATION

I, Dr Claude Alvares, Indian national, age 60 years, resident of Parra, Bardez, Goa, authorised representative of the Petitioner No.3 abovenamed, solemnly state on oath as under

1. I have today filed an application for stay of further operation of the consent order of the Pollution Control Board.

2. I am filing this affidavit to verify the contents of the aforesaid application. I solemnly declare and say that what has been stated in paragraphs 1, 2, 3, 6, 7 and 9 (part) is true to the best of my knowledge and what is stated in the remaining paragraphs, namely, 4, 5, 8, 9 (part), 10-15 is in the nature of legal submissions and/or inferences of facts, which I believe to be true.

3. I state that the annexures to this petition are true copies of the originals.

Solemnly affirmed at Panaji
this the ___ day of August 2008 Deponent

ANNEXURE A 10

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 136 OF 2008

RAMA LADU VELIP AND 2 ORS., ... Petitioners
Versus
STATE OF GOA THROUGH CHIEF SECRETARY AND 11 ORS., ... Respondents

Ms. Norma Alvares, Advocate for the petitioners.
Mr. S. S. Kantak, Advocate General with Ms. Rakhi Chodankar, Addl. Govt. Advocate for respondents No.1, 4, 5, 6, and 9.
Mr. J. Vaz, Central Govt. Standing Counsel for respondents no. 2, 3 and 8.
Mr. A. N. S. Nadkarni, and Mr. D. Lawande, Advocates for respondent No.6.
Mr. Coelho Pereira, Senior Advocate with Mr. S. Karpe, Advocate for respondent No.11.
Mr. Sudesh Usgaonkar, Advocate for respondent No.12.

Coram:- S.A. BOBDE &
N. A. BRITTO, JJ.

Date:- 22nd April, 2008

P.C.

Rule, returnable early. Ms. Chodankar waives service on behalf of respondents No.1, 4, 5, 6, and 9, Mr. Vaz waives service on behalf of respondents no. 2, 3 and 8, Mr. Lawande waives service on behalf of respondent No.6, Mr. Karpe waives service on behalf of respondent No.11 and Mr. Usgaonkar waives service on behalf of respondent No.12.

2. Ms. Alvares, learned Counsel for the petitioners prays for an injunction, restraining the respondents from carrying on any mining activity in the area which is leased out to them. The learned Counsel submits that there is no existing mining lease and, therefore, the respondents are not entitled to carry on any activity thereon. Prima facie, it is not possible to accept this contention. There is no dispute that the

mining lease was renewed by the Government of Goa from 22.11.1989. The period of this mining lease is 20 years by virtue of Section 8 of the Mines and Minerals (Regulation and Development) Act, 1957 and not 10 years, as is believed by the petitioners. Thus, the mining leases expired on 21.11.2007. Therefore, clearly, the respondents are operating the mining leases under sub-Section (6) of Rule 24A of the Minerals Concession Rules, 1960. It is, therefore, not appropriate to restrain the respondents from operating under the mining lease.

3. This, however, does not mean that the respondent-State shall not be bound to act in accordance with Section 2 of the Forest Conservation Act, 1980 at the stage of renewal of the mining lease when they pass orders pertaining to the renewal of mining lease.

4. The learned Counsel for the petitioners also urged that respondents be restrained from carrying on mining operations in the forest area by virtue of the Forest Conservation Act, 1980. There is a dispute on the part of respondent No.11 that they are carrying on mining in a forest area. The learned Advocate General supports the statement of respondent No.11. However, the learned Advocate General states that the State will not permit any mining activity to be carried on in a forest area and wherever it is found, they will stop such activity, unless the party has obtained permission under the Forest Conservation Act. The respondent-State is hereby directed to examine whether any roads in the area of the mining lease in question are operating in contravention of the Forest Conservation Act and thereupon to stop any transportation activity on the road, if permission under the Forest Conservation Act, though necessary, is not obtained. Similarly, the respondent-State is directed to examine whether dumping is being carried on in the forest area and take appropriate action in that regard.

5. The learned Counsel for the petitioner further submitted that the

renewal of mining lease, if granted, would be in contravention of the provisions of Town and Country Planning Act, Goa Panchayat Raj Act, and the Goa Land Revenue Code. The respondent-State shall examine these aspects as and when it considers the grant of renewal of mining lease. Accordingly, the prayer for injunction is rejected at this stage.

S.A. BOBDE, J.

N. A. BRITTO, J.

ssm.

Annexure B 13

IN THE HIGH COURT OF BOMBAY GOA BENCH
AT PANAJI, GOA

Writ Petition No.136 of 2008

Rama Ladu Velip & Ors. ... Petitioners

Versus

State of Goa and Ors. ... Respondents

AFFIDAVIT ON BEHALF OF RESPONDENT NO. 6

I, Ashok G. Daiwajna, aged about 51 years, Indian National, residing at Porvorim, Bardez, Goa, do hereby on solemn affirmation, state and submit as under :

1. I state that I am presently working as Member Secretary in the Respondent No.6 Board and I state that I am authorised to file the present Affidavit.

2. I state that the Goa State Pollution Control Board vide letter dated 14/03/2008 had issued a Show Cause Notice to the Respondent No.11 asking them to show cause as to why their consent to operate should not be revoked / recalled until prior Forest Clearance has been obtained. I state that a copy of the Show Cause Notice was sent to the Collector for enforcement of the

directions and also to the Chief Electrical Engineer for disconnection of power supply. I state the Collector had intimated the Board that the Office of the Collector had numerous other responsibilities and functions to be complied with on urgent basis ranging from Election to magisterial and administrative to judicial and hence additional duties / responsibilities as in the instant case hampers the smooth functioning of his office and that the Collector informed the Board to route such directions through the Revenue Department. I state that the matter was taken up with the Chief Secretary and the Chief Secretary has since directed the Collectors to act upon the directions issued by the Board under the Provisions of Sections 31A and 33A of the Air and Water Acts respectively.

Annexed hereto and marked as "Exhibit A" is the copy of the Show Cause Notice dated 14/03/2008.

4. I state that Respondent No. 11 vide his reply dated 20/03/2008 informed the Respondent No. 6 Board that only a part of the Mining Lease i.e. 57/1(P) and Survey No. 68/1(P) is demarcated as private forest.

Annexed hereto and marked as "Exhibit B" is a copy of the Reply dated 20/03/2008.

5. I state that upon receipt of the aforesaid reply,

the Goa State Pollution Control Board vide communication dated 28/3/08, requested the Chief Conservator of Forests to clarify whether the Mining Operations can be carried on outside the forest area without the forest clearance. I state that the Chief Conservator of Forests is yet to reply to the said communication. I state that the decision on the Show Cause Notice would be taken by the Board upon receipt of the Reply from the Chief Conservator Forests.

Annexed hereto and marked as ***"Exhibit C"*** *is the copy of communication dated* 28/3/08.

6. I state that the Goa State Pollution Control Board has issued a Show Cause Notice to the Respondent No. 11 along with the Closure Direction. I therefore state that nothing survives in this Writ Petition and the same be dismissed as the Authority is ceased of the matter.

Whatever is stated hereinabove is partly true to my knowledge and partly based on the records available with the Board which I believe to be true and correct.

Solemnly affirmed at Panaji, Goa }
this 5th day of April, 2008 } **DEPONENT**

Identified by me :-

Exhibit 1

GOA POLLUTION CONTROL BOARD

Phone Nos: 91-832-2438567, 2438528
2438563, 2438550
Fax: : 832-2438528

Dempo Towers, 1st Floor
EDC Plaza, Patto,
Panaji 403 001, Goa

No. 1/25/07-PCB/C618

14/03/2008

SHOW CAUSE NOTICE

WHEREAS this Board has granted you Orders bearing nos. Water/2534/2008 and Air/1255/2008, dated 11/02/2008, respectively for Consent to Operate your Mine unit, namely Gogoro Ou Gulcan Dongor Mine, located at T.C. No. 6/49, at Survey nos. 55, 56, 69, 70, 42-46 (part), 54(part), 57(part), 58(part), 59(part), 67(part), and 68 (part), in Colomba village, Sanguem, South Goa.

AND WHEREAS it is brought to the notice of this Board that Survey nos. 57, 68 and 69, in which you are operating your mine, have been demarcated as 'Private forest' by the Sawant/Karapurkar Committees.

AND WHEREAS vide your Application for Consent to operate submitted to this Board on 13.8.2007, you have failed to disclose that the said Survey nos. 57,68 and 69 fall within private forests as demarcated by the Sawant/Karapurkar Committees.

AND WHEREAS, vide Section 2 of the Forest (Conservation) Act, 1980, you are required to obtain prior approval from the Central Government for dereservation of forests or using of forest land for a non forest purpose.

Section 2 (ii) of the Forest (Conservation) Act, 1980, is reproduced hereinbelow,

"Section 2. **Restriction on the dereservation of forests or use of forest land for non forest purpose.** Notwithstanding anything contained in any other law for the time being in force in a State no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing.

(ii) That any forest land or any portion thereof may be used for any non-forest purpose"

AND WHEREAS the Hon. Supreme Court of India, has in various environmental matters, directed that no non forest activity should be conducted/carried out in forest areas without the prior approval of the Central Government.

AND WHEREAS non-disclosure of information pertaining to the fact that Survey nos. 57, 68 and 69 in which your mine is located, falls within the area demarcated as a private forest by the Sawant/Karapurkar Committees, amounts to an offence under Section 42(1) (f) of the Water (Prevention and Control of Pollution) Act, 1974, and under Section 38 (1) (f), of the Air (Prevention and Control of Pollution) Act, 1981.

NOW THEREFORE in view of the above and in exercise of the powers vested with this Board under section 31 (A) of the Air (Prevention and Control of Pollution) Act, 1981, and under Section 33 (A) of the Water (Prevention and

Control of Pollution) Act, 1974, **you are hereby directed to Show cause within a period of 15 days from the date of receipt of this notice as to why the Consent to operate granted to your mine unit**, namely Gogoro Ou Gulcan Dongor Mine, located at T.C. No. 6/49, at survey nos. 55, 56, 69, 70, 42-46 (part), 54 (part), 57(part), 58(part), 59(part), 67(part) and 68(part), in Colomba village, Sanguem, South Goa, by this Board, vide Orders bearing nos. Water/2534/2008 and Air/1255/2008, dated 11/02/2008, respectively, **should not be revoked/recalled, until prior forest clearance is obtained by you.**

FURTHERMORE, in exercise of the powers vested with this Board under section 31 (A) of the Air (Prevention and Control of Pollution) Act, 1981, and under Section 33 (A) of the Water (Prevention and Control of Pollution) Act, 1974, the Consent to operate as stated above, which was granted to you for the operation of the said mine, is hereby revoked/ recalled until such time as you satisfactorily Show cause within the stipulated time period as stated above.

Directions are further issued to the management of Gogoro Ou Gulcan Dongor Mine, located at T.C. No. 6/49, at Colomba village, Sanguem, South Goa, to **suspend/close the operation of your Mining Unit, in those areas which have been demarcated as 'Private Forest' by the Sawant/Karapurkar Committees, with immediate effect, until further orders.**

Issued on this day of March 2008 for immediate compliance.

Member Secretary
For the Goa State Pollution Control Board

To,
Shri Hiralal Khodidas,
C/o Casa Auto Moderna,
Near Sanvordekar petrol pump,
Curchorem-Goa 403 706

Cc to:-

1. The Collector, South Goa District Margao, Goa	...who is directed to ensure Closure of the mines operations in those areas which have been demarcated as 'Private Forest' by the Sawant/ Karapurkar Committees (as stated above)
2. The Chief Electrical Engineer, Panaji, Goa	... to disconnect power supply to the mine

Hiralal Kodidas

EXHIBIT-B'

MINE OWNER
CURCHOREM-GOA
403706

Date. 20-03-2008

To,
The Member Secretary.
Goa State Pollution Control Board
Dempo Towers. Panaji Goa.

Sub: Show Cause Notice
Reference : To Your above notice No.1/25/07-PCB/6613 dated 14/03/2008.

Dear Sir.

We have received your show cause notice referred above dt. 14th March 2008 and in reply to the same we have to respectfully state and submit as under:-

You are aware that Rama Ladu Velip and 2 others have filed Writ Petition before the Hon'ble High Court making some false allegations The Goa State Pollution Control Board through its member Secretary is Respondent No.6 therein. Issuance of show cause notice when the matter is sub-judice before the Hon'ble High Court on the subject, thus amounts to interference in the course of administration of justice. The show cause notice therefore needs to be forthwith revoked on this count alone

Without prejudice to the above, you have issued the show cause notice without ascertaining true facts, solely on the basis of the allegations which are found to be made in the Writ Petition or probably being mislead on the aspect by some false representation

Your action of revoking /re-calling the consent granted for the operation of mines until receipt of satisfactory reply is also contrary to the principal of natural justice, equity and fair play. More so because the consent was granted after complying all requisites formalities.

In any event and without prejudice to the above, we deny the allegations of working in private forest identified by Sawant and Karapurkar Committee

It is on the record with forest department whose officials have visited the mine on several occasions and the Forest Department has itself marked the forest pillars demarcating the private forest boundaries and the working of our mine is outside the demarcated boundaries marked by the forest department.

This fact is even established by the forest department and the department of Mines and geology when they had done joint inspection of the mine on 14.07.2008

Our mine (Gogoro-Ou-Gulcan Dongar Mine TC no. 6 of 1949) is under operation for almost 49 years producing Manganese. We have started operation in re-channised for development in Iron ore area from October 2006 onwards and the present term after obtaining environmental clearance

Hiralal Kodidas

MINE OWNER
CURCHOREM-GOA
403706

Sawant and Karapurkar committee has identified only part of survey nos. 67/1(P) and 68/1(P) as private forest and the demarcation for the same is done in June 2006. Our lease also includes land bearing survey numbers 42, 43, 46, 54, 55, 56, 58, 59, 67, 69 and 70 of Colomba Village of Sanguem taluka which is not demarcated as private forest. Enclosed herewith is a surface plan in 1:2000 showing demarcation of pillars as private forest and our mine workings are outside the demarcated Area.

It is submitted that in the event if we desire to extend mine workings in private forest area in future, necessary permissions will be obtained from the Forest department and any such working will be done only after obtaining lawful permissions.

We have not suppressed (non –disclosed) any information as alleged in your show cause. We repeat and re-iterate that we are not operating in the area demarcated by Sawant-Karapurkar Committee as private forest.

We therefore request your goodself to ignore such false representations given by any individual since all our workings are as per statutory approvals from the authorities.

In view of above, we earnestly request your goodself to forthwith revoke the show cause notice and obliged.

Thanking You,

Yours Faithfully,

Uday Gosalia.
Legal Heir of late Hiralal Kodidas.

Encl: Surface Plan in 1:2000

C.C.TO:

1.The Collector,South Goa District Margao.
2.The Chief Electrical Engineer. Panaji.

RD20

Saptagiri Towers, 1st Flo
EDC Plaza, Patto,
Panaji 403 001, Goa.

EXHIBIT - C'

No. 1/25/07-PCB/ 6955 . 28/03/08

To,

The Chief Conservator of Forest,
Department of Forest,
Near Old Passport Office
Panaji Goa.

Sub: Clarification regarding operation of the mining activities in Forest area

Sir,

The Board has received reply to the show cause notice from M/s Hiralal Khodidas T.C. No 6/49 Gogoro ou Gulcan Dongor-mine located at Colomba village Senguem Goa that they are not operating their mine in the private forest as demarcated by Sawant Karapurkar Committee but carrying on mining activities in the non forest area. The mining lease is not being granted forest clearance by your Department. The copy of the reply is enclosed)

In this regard you are kindly requested to clarify whether the mine operator can carry on mining activity near/outside the forest area without clearance when the clearance should be granted for the entire lease as whole. Whether your department has granted forest clearance to the said mine.

Yours faithfully,

(Member Secretary)
For Goa State Pollution Control Board

Annexure C

21

GOVERNMENT OF GOA,
Office of the Chief Conservator of Forests,
Forest Department
Panaji Pin 403 001
Ph:- 0832-2224747, 2421414 Fax:- 0832-2224747.

No.6-13-(174)-2007-FD/ 291
Dated: 17.04.2008.

The Member Secretary,
Goa State Pollution Control Board,
Dempo Towers, 1st Floor,
EDC Plaza, Patto,
Panaji 403 001, Goa.

Sub:- Clarification regarding operation of the mining activities in Forest area.

Sir,

I am directed to refer to your letter no.1/25/07-PCB/6985 dated 28.03.2008 on the subject cited above and to inform you that approval from the Central Government under the Forest (Conservation) Act, 1980 is required for approval of any mining lease where forest area is involved in the lease. The Hon'ble Supreme Court vide order dated 12.12.1996 in W.P. 202/95 & Godavarman V/s Government of India & Other wherein it is clarified that

"The term "forest land" occurring in Section 2, will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of its ownership. This is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests, and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof"

- Does not speak of renewal
- FCA clearance is required for mining lease having forest on lease.
- Forest Dept opinion is that mining operation is violative of FCAct & SC Orders
- even a deemed mining lease needs FCA clearance

Member Secretary
Goa State Pollution Control Board

As per records of this office, Government Forest land as well as forest under private ownership from part of the mining lease 6/49 of M/s. Hiralal Khodidas.

No application for clearance under Forest (Conservation) Act,1980 has been submitted by the lease holder of mining lease 6/49 situated at Colomba and no clearance has been granted to the said mine by this department.

Yours faithfully,

(D. N. F. Carvalho)
Dy. Conservator of Forests,
Monitoring & Evaluation

Member Secretary
Goa State Pollution Control Board

Annexure D (Colly)
23

G-8, St Britto's Apartments,
Feira Alta, Mapusa 403507 Goa
Phones: 9326115907
email: goafoundation@gmail.com

15th July, 2008

To:

The Public Information Officer,
Goa SPCB,
Dempo Towers, Patto,
Panaji, Goa.

Subj: Information under RTI Act in respect of Hiralal Khodidas mine (TC 6/49)

Dear Sir,

The Board had written to the Forest Department vide its letter dated 28.3.2008, seeking clarifications on whether the above mining lease had forestry clearance.

Subsequently, under RTI Act, we have been provided with the response dated 17.4.2008 sent by the Forest Department to the GSPCB which states that the lease does not have the necessary forestry clearance under FCA, 1980.

In light of the above, we now seek to know under RTI Act, whether the Board, since receiving the clarification, has withdrawn the consent to operate in the case of the mine concerned.

Copies of any correspondence between the Board and the Forest Department in this matter may be supplied to the applicant.

Yours sincerely,

(Dr Claude Alvares)

15/7/08

GOA STATE POLLUTION CONTROL BOARD
गोंय राज्य प्रदूशण नियंत्रण मंडळ

Phone Nos 0832-2438563 2438564
2438563 2438564
Tel / Fax No 832-2438528
Email cspcb@sancharnet.in

No. 8/33/08-PCB/Vol.V/2771 16/07/08

To,
Dr. Claude Alvares
G-8, St. Britto's Apts.
Feira Alta,
Mapusa, Bardez Goa.

Sub: Information under Right to Information Act, 2005
Ref: Your letter dated 15/7/08

Sir,

With reference to your letter cited above, this is to inform you that on receipt of the reply from the Forest Department, the Board vide letter dated 17/06/08 has requested to initiate necessary action as per the Forest Conservation Act.

A copy of the reply may be collected on payment of Rs. 2/- in the Oriental Bank of Commerce, Panaji.

Yours faithfully,

(A.G. Daiwajna)
Member Secretary / Public Information Officer

Phone No
2438563 2438565
Tel / Fax No 832-2438528
Email gspcb@sancharnet.in

1st Floor,
403 001

No. 8/25/06-PCB/Vol.V/ 4166

17/06/08

To,

1. The Director
Dept. of Science, Technology & Env.
Opp. Saligao Seminary
Saligao, Bardez Goa.

2. The Director
Dte. of Mines and Geology
Udyog Bhawan
Panaji Goa.

Sir,

Please find enclosed herewith a letter received from the Dy. Conservator of Forests, with regards to operation of mines in Forest area, pertaining to that of M/s Hiralal Khodidas, T.C. no. 6/49.

In view of the clarification given by the Forest Dept., you are requested to take further necessary action in this matter.

Yours faithfully,

(A.G. Daiwajna)
Member Secretary

No. 90/362/88-HR/6496
Government of Goa,
Directorate of Mines & Geology
Udyog Bhavan,
Panaji - Goa.

Dated:- 04/03/2008.

To,
The Chief Conservator of Forests,
Panaji Goa.

Sub:- Violation of Hih Court Orders by Hiralal Khodidas mining activities.

Sir,

Kindly refer to your letter No. 6-13-(174)-97-HD/6176 dated 28/02/2008 on the above mentioned subject.

In this connection it may be stated that violation of High Court order as alleged by Goa Foundation that mining operations are being conducted in Sr. No. 57/1 which has been identified as private forest by Sawant/Karapurkar committees is a subject matter to be dealt with by your Department as it involves a non forest activity. The MMDR 1957 and MCR 1960 do not empower this Directorate to take action against the mining lease/mining lease holder as the said mining lease is presently under deemed extension. Any action therefore towards the mining activities or towards illegal using the road passing through Government forest, may be taken at your level.

Yours faithfully.

(J. B. Shingun IAS)
Director of Mines & Geology

27

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
GOA BENCH, AT PANAJI

MISCELLANEOUS CIVIL APPLN. NO. OF 2008

IN

WRIT PETITION NO. 136 OF 2008

The Goa Foundation ... APPLICANTS

In

1, Rama Ladu Velip,
r/o Colomba village,
Sanguem, Goa.

2. A.Prabhudesai,
r/o Colomba village,
Sanguem, Goa.

3. Goa Foundation,
a Society registered under
the Societies Registration Act, 1960,
through its Secretary,
Dr. Claude Alvares,
and having its registered office at
Room 7, Above Mapusa Clinic,
Mapusa, Goa. ... PETITIONERS

v/s

1. State of Goa,
through its Chief Secretary,
Government of Goa,
Secretariat, Porvorim, Goa.

2. Union of India,
through Secretary,
Ministry of Environment & Forest,
Government of India,
Paryavaran Bhavan,
CGO Complex, Lodi Road,
New Delhi 110 003.

3. The Secretary,
Ministry of Mines,
Government of India,
Udyog Bhavan,
New Delhi.

4. Chief Town Planner,
Government of Goa,
Town and Country Planning Dept.,
Panaji, Goa.

5. The Chief Conservator of Forest,
Forest Department,
Gomantak Maratha Mandir,
Panaji, Goa.

6. The Goa State Pollution Control Board,
through its Member Secretary,
Dempo Towers, Patto, Panaji, Goa.

7. The Director of Mines & Geology,
Udyog Bhavan,
Panaji, Goa.

8. The Regional Controller of Mines,
Fatorda, Margao, Goa.

9. The Collector, South Goa,
Office of the Collector,

29

Margao, Goa.

10. Panchayat of Colomba-Rivona,
through its Secretary, Colomba,
Sanguem, Goa.

11. Hiralal Khodidas,
Mine Owner,
Caza Auto Moderna,
Curchorem, Goa - 403 706.

12. Sociedade Fomento Industrial,
Villa Flores, EC Street,
Margao, Goa. ... RESPONDENTS

Reply on behalf of Respondent no. 11.

MAY IT PLEASE YOUR LORDSHIP:

1. By application under reply the Petitioners inter alia seek (a) for stay of the further operation of the consent order dated 11-2-2008 issued by the Respondent no. 6, (b) for a direction to the Respondent no. 6 to take a decision within a time frame regarding its consent order dated 11-2-2008 and (c) for a direction to the Government of Goa, to take a

decision within a time frame on the renewal application of the Respondent no. 1.

2. The Petitioners in fact by the application under reply are seeking a review of the Order dated 22-4-2008 passed by this Hon'ble Court and by the application under reply seek for reliefs, which in terms were refused by the order of this Hon'ble Court dated 22-4-2008.

3. The application under reply seeks to set in motion this Hon'ble Court, on the ground that the Respondents did not place before this Hon'ble Court certain correspondence exchanged between them inter-se. As a fact, when the order dated 22-4-2008 as passed, the Petitioners, as well as the Respondents, namely 5 and 6 who were before the Court, put before this Hon'ble Court the facts. As a fact, this Hon'ble Court considered the contentions of the Petitioners that the Respondent no. 11 be restrained from carrying on mining operation in the Forest area by virtue of the Forest Conservation Act, 1980 and considering the

statement made by the learned Advocate General on behalf of the State, that the State will not permit any mining activity in the Forest area and whenever it was found, they would stop such activities, unless the party obtained permission under the Forest Conservation Act.

This is not the view of forest Dept

4. This Hon'ble Court ordered the State to examine if any road in the mining lease in question were operating, in contravention of the Forest Conservation Act, and to stop any mining operations, if permissions under the Forest Conservation Act were not obtained and directed the State Government to examine whether dumping was carried on in the Forest area and to take action in that regard.

5. This Hon'ble Court also in para 3 of the said order dated 22-04-2008, expressed its view that the order did not mean, that the Respondent State should not be bound to act in accordance with the Forest Conservation Act, at the stage of the renewal of the

32

Mining Lease when the State passes the orders pertaining to the renewal of the Mining Lease.

6. The Petitioners state that whilst passing the said order, this Hon'ble Court has taken into consideration all the relevant aspects concerning the grievances of the Petitioners in the petition, that the mining was being carried on in violation of the provisions of the Forest Conservation Act and has been pleased to pass the orders dated 22-04-2008, in fact, after considering the submissions which were made by the Petitioners and which are sought to be canvassed in the application under reply.

7. The Respondents no. 5 and 6 are parties to the petition and filed their reply on interim reliefs. As a fact, the Respondent no. 6 is processing the application of renewal of consent and in this pursuit, these Respondents were given a hearing by the Respondent no. 6 on 11-09-08. These Respondents, in fact, have applied for renewal of the said consent, precisely to comply with the statutory requirement of securing the

SPCB

NOC
of
FCA

consent from the said authority, to continue to operate their existing mine.

8. In the light of the fact that the Respondent no. 6 are in compliance of law processing the said application, the question of granting any relief to the Petitioners as sought for in the application under reply does not arise and the application should be rejected on this ground, suffice it to say, that the imputations of fact and the allegations contained in the application under reply which are not specifically admitted and which are inconsistent and contrary to the stand taken by this Respondent in their return may be taken as denied.

PANAJI-GOA

22-09-2008 RESPONDENT NO. 11

ADVOCATE FOR RESPONDENT NO. 11

34

AFFIDAVIT

I, Uday Gosalia, son of late Hiralal Khodidas, major of age, Indian National residing at Curchorem, Goa, Respondent no. 11 above named, do hereby on solemn affirmation beg to state that whatever stated in the foregoing paras are facts true to my own knowledge.

SOLEMNLY AFFIRMED AT PANAJI
ON THIS 22ND DAY OF SEPTEMBER,
2008 DEPONENT

Identified by me:

Advocate for Respondent no. 11

35

IN THE HIGH COURT OF BOMBAY AT GOA

MCA NO. /2008 IN

Writ Petition No. 136/2008

Shri Rama Velip and Ors. .... Petitioners

V/s

State of Goa and Ors. .... Respondents

AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO. 5

I, M. K. Bidi, major of age, Indian National, having my office at Margao, Goa, do hereby on solemn affirmation state and submit as under: -

1. I respectfully submit that the present application is not maintainable. The application is practically seeking a review of the order dated 22/04/2008 passed by this High Court whereby this Hon'ble Court had rejected the prayer for interim relief made by the petitioner. In so far as prayer no. (IV) is concerned the same is beyond the scope of petition.

2. Without prejudice, I am filing this reply.

3. The application is filed on the ground that the letter dated 17/04/2008 was not produced before this Hon'ble Court and that there is violation of Forest Conservation Act, 1980.

4. I say that the petitioner has specifically raised the ground in the petition that the mining lease does not have clearance under provision of Forest Conservation Act, 1980.

5. Petitioner have specifically stated in the petition that a part of a mining lease includes forest area and that a mining lease does not have the mandatory forest clearance.

6. In reply, it was brought on record by this department that property surveyed under surevy no. 57(P) and 68(P) , included in the mining lease are private forest.

7. In para 5, 6 & 7 it was stated thus:-

"5. I say that the joint inspection was carried out along with officials of Mines Department in order to point out the extent of demarcated private forest within survey no. 57 (P) and 68 (P) so as to ascertain as to whether any mining activities are being carried out within such demarcated forest areas.

6. I say that the entire survey no. 68(P) within the leased area has been demarcated as private forest. I further say that the demarcated private forest within survey no. 57 (P) is on the eastern boundary of survey no. 57 (P) within the leased area and beyond the nullah. On the surface plan of the Respondent no. 11, the boundary stones put up for demarcation were then plotted.

7. I say that no mining activity is carried out by Respondent no. 11 in the area identified and demarcated as private forest i. e. in the entire

survey no. 68 (P) and in the area identified as private forest in survey no. 57 (P)."

8. This aspect of the matter was considered by this Hon'ble Court when the prayer for interim relief made by the petitioner was taken up for hearing. In para 4 of the order dated 22/04/2008 this Hon'ble Court has observed as follows:-

> "The learned Counsel for the petitioners also urged that respondents be restrained from carrying on mining operations in the forest area by virtue of the Forest Conservation Act, 1980. There is a dispute on the part of respondent No.11 that they are carrying on mining in a forest area. The learned Advocate General supports the statement of respondent No.11. However, the learned Advocate General states that the State will not permit any mining activity to be carried on in a forest area and wherever it is found, they will stop such activity, unless the party has obtained permission under the Forest Conservation Act."

9. It is therefore respectfully submitted that the petitioner are trying to reopen the issue which stands concluded at the interim stage inview of the order dated 22/04/2008.

10. Petitioners are relying upon the letter dated 17/04/2008. This letter has been written by Dy. Conservator of Forest and states that no permission under Forest Conservation Act has been granted, which is a matter of fact. The statement made by the officer that approval from Central Government under Forest

Conservation Act, 1980 is required for approval of any mining lease where forest area is involved in the lease has to be read in the context. The Officer has not stated that even when mining is not done in any forest area, FCA clearance is required. In any case whether such clearance is required or not is a matter of interpretation of legal provision and cannot be left to the opinion of the officer.

11. This matter is in issue in the main Writ Petition and has been considered by this Hon'ble Court before passing the order dated 22/4/2008.

12. It is therefore submitted that the present application does not deserve any consideration.

I say what is stated by me in paras of the above Reply are as per the records available in the Office and what is stated in the remaining paragraphs are in the nature of legal submission.

Solemnly affirmed at Panaji, Goa

On this 22nd day of September, 2008

(DEPONENT)

Identified by me: -

(Rakhi M. Chodankar)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

GOA BENCH, AT PANAJI.

MCA No. 631 / 2008

In

WRIT PETITION NO. 136 of 2008

Goa Foundation .. Applicant

In

Rama Ladu Velip & ors ..Petitioners

v/s

State of Goa and ors ..Respondents

AFFIDAVIT OF APPLICANT / PETITIONER NO.2

I, Dr Claude Alvares, Secretary, Goa Foundation, petitioner No.2 herein, do hereby solemnly affirm and submit as follows:

1. That by letter dated 23.4.2008, I filed an application before the Ministry of Environment & Forests (Resp.No.2), for cancellation of the environment clearance of the Respondent mining company in view of the fact that the Resp.No.11 had suppressed facts relating to the existence of forest cover on the mining lease.

2. On 27-8-2008, under the provisions of the RTI Act, I requested for information about the actions taken on the said complaint. I was informed that the relevant division was not yet in receipt of the

Received for R-11
14/1/09

complaint filed and that the file had been sought and action taken thereafter.

3. On 6-10-2008, I sent fresh copy of the complaint.

4. In November 2008, I received letter annexed at ***Annexure A*** from the Ministry enclosing copy of show cause notice issued to the Resp.No.11 on the application filed by the Goa Foundation. 15 days' time was given to the Resp.No.11 to respond to the charge of misrepresentation of facts.

5. Though 15 days have long since passed, the Ministry has not informed the Goa Foundation of actions taken on the basis of the show cause notice.

6. I am filing this application for the purpose of bringing on record the copy of the show cause notice dated 24.10.2008. I say that it was on the basis of the environment clearance granted to the Resp.No.11 that the Pollution Control Board had granted consent to the Resp.No.11 to operate the mining lease.

Solemnly affirmed this
the 14th day of January, 2009

Deponent

REGD. POS

F.No.J-11015/180/2006-IA.II(M)
Government of India
Ministry of Environment & Forests

Paryavaran Bhavan, C.G.O. Complex
Lodi Road, New Delhi-110003
Tel.No.011-24367257
e-mail: w.bharat@nic.in
Dated: October 24, 2008

To

Shri Uday H. Gosalia
Near Savordekar Petrol Pump
Curchorem, District South Goa
Goa - 403 706.

Sub: ***Environmental clearance of Gogoro Ou Gulcan Dongor Mine at village Colomba, in Sanguem Taluk, in South Goa Distt.***

Sir,

It has been informed that the Survey No. 68 and Survey No. 57/1 which falls in your mining lease of your above mentioned mine is a *private forest land,* whereas, as per information provided by you while applying for environmental clearance of the said mine, the same was mentioned as *private waste land.*

You are therefore requested to give your clarification with documental evidence such as revenue records of the State Govt. or any other to substantiate your claim that the lease area is a private waste land as submitted by you earlier. In case no satisfactory reply is received within 15 days from the receipt of this letter, suitable action will be taken for misrepresentation of facts.

Thanking you.

Yours faithfully,

24/10/08

W.Bharat Singh
Dy. Director (IA)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
GOA BENCH, AT PANAJI

MISCELLANEOUS CIVIL APPLN. NO. OF 2008

IN

WRIT PETITION NO. 136 OF 2008

The Goa Foundation ... APPLICANTS

In

1, Rama Ladu Velip,
r/o Colomba village,
Sanguem, Goa.

2. A. Prabhudesai,
r/o Colomba village,
Sanguem, Goa.

3. Goa Foundation,
a Society registered under
the Societies Registration Act, 1960,
through its Secretary,
Dr. Claude Alvares,
and having its registered office at
Room 7, Above Mapusa Clinic,
Mapusa, Goa. ... PETITIONERS

v/s

1. State of Goa,
through its Chief Secretary,
Government of Goa,
Secretariat, Porvorim, Goa.

2. Union of India,
through Secretary,
Ministry of Environment & Forest,
Government of India,
Paryavaran Bhavan,
CGO Complex, Lodi Road,
New Delhi 110 003.

3. The Secretary,
Ministry of Mines,
Government of India,
Udyog Bhavan,
New Delhi.

4. Chief Town Planner,
Government of Goa,
Town and Country Planning Dept.,
Panaji, Goa.

5. The Chief Conservator of Forest,
Forest Department,
Gomantak Maratha Mandir,
Panaji, Goa.

6. The Goa State Pollution Control Board,
through its Member Secretary,
Dempo Towers, Patto, Panaji, Goa.

7. The Director of Mines & Geology,
Udyog Bhavan,
Panaji, Goa.

8. The Regional Controller of Mines,
Fatorda, Margao, Goa.

9. The Collector, South Goa,
Office of the Collector,

Margao, Goa.

10. Panchayat of Colomba-Rivona,
through its Secretary, Colomba,
Sanguem, Goa.

11. Hiralal Khodidas,
Mine Owner,
Caza Auto Moderna,
Curchorem, Goa - 403 706.

12. Sociedade Fomento Industrial,
Villa Flores, EC Street,
Margao, Goa. ... RESPONDENTS

MAY IT PLEASE YOUR LORDSHIPS:

1. In the application in the above said C.M.A. the Petitioner has sought for reliefs inter alia in terms of prayer (15)(i) for a stay of the further operation of the consent order dated 11-02-2008, issued by the Respondent Board and in terms of prayer (ii) for a direction to the Pollution Control Board to take decision within a time frame regarding its consent order dated 11-02-2008.

2. The Respondent no. 11 has joined issue to the said C.M.A. by reply dated 20-09-2008. Subsequent to the

filing of the said reply, the Respondent No.6 on consideration of relevant material on record and on carrying out an inspection at site has by order dated 7-10-2008, granted this Respondent renewal for consent to operate for a period of 7-10-2008 to 31-07-2010. Hereto annexed and marked as **ANNEXURE-I** is a copy of the said order.

3. In view of this subsequent event this Respondent files this application to bring the events subsequent to the filing of the reply on record, needless to say, that the statements made by the Petitioner in the affidavit filed by them subsequent to the reply filed by this Respondent may be taken as denied.

4. In view of the said developments, the prayers in the abovesaid C.M.A. do not survive.

PANAJI-GOA

15-4-2009 RESPONDENT NO. 11

ADVOCATE FOR RESPONDENT NO. 11

AFFIDAVIT

I, Uday Gosalia, son of late Hiralal Khodidas, major of age, Indian National residing at Curchorem, Goa, Respondent No. 11 above named, do hereby on solemn affirmation beg to state that whatever stated in the foregoing paras are facts true to my own knowledge.

SOLEMNLY AFFIRMED AT PANAJI

ON THIS DAY OF APRIL 2009 DEPONENT

Identified by me:

Advocate for Respondent

GOA STATE POLLUTION CONTROL BOARD
गोंय राज्य प्रदुशण नियंत्रण मंडळ

Phone Nos. : 91-832 2438567, 2438528
2438563, 2438550
Fax No. : 832-2438528

Dempo Towers, 1st Floor,
EDC Plaza, Patto,
Panaji 403 001, Goa.

No. 5/ 2607 /04-PCB/ 4477

Date: 7 /10/08

RENEWAL OF CONSENT TO OPERATE UNDER SECTION 25 OF THE WATER (PREVENTION & CONTROL OF POLLUTION) ACT,1974, AS AMMENDED.

As per the provisions of the Water (Prevention & Control of Pollution) Act, 1974, and the Rules and the Orders made thereunder,
"Renewal of Consent to Operate" is hereby granted to:

SHRI. HIRALAL KHODIDAS
(Gogoro Ou Gulcan Dongor Mine)

(Hereinafter referred as "The Industry")
To operate their Mining Unit located at:-
T.C No. 6/49,
Village Colomba,
Sanguem Taluka, South-Goa

This renewed Consent to Operate their mining industry is subjected to the following terms and conditions:

1. This renewed Consent to Operate is issued in supersession of the earlier renewal of Consent to Operate issued vide letter No 5/2607/04-PCB/5816 dated 11/02/08 is valid upto **31/07/2010.**

2. This renewed Consent is valid for the manufacture/production of:

Sr. No	Product	Maximum Quantity
1.	Iron Ore	4 lakh tons/ annum

3. (i) The rain accumulated mining pit water discharge from the industry shall not exceed **NIL**

(ii) The daily quantity of domestic effluent from the factory shall not exceed **1 K.L.D.**

(iii) **Discharge of Water from Mining Lease:**
The discharge of water from mining lease should confirm to the following standards:

pH	Between	5.5 & 9.0
Suspended Solids	Not to exceed	100 mg/l
Iron	Not to exceed	3 mg / l
Manganese	Not to exceed	2 mg / l
Oil & Grease	Not to exceed	10 mg/l

(iv) The mining industry shall at his own cost get the samples of water discharged from the mining lease area collected and analyse, every month the parameters indicated above from a laboratory recognized by Ministry of Environment and Forest under the Environment Protection Act, 1986 and rules there under and results shall be submitted regularly to this Board.

(v) **Domestic Effluent treatment and Disposal:-**
The domestic wastewater shall also be treated in a properly designed septic tank and discharged on land for percolation through soak pit of adequate size within the factory premises.

4. The company should comply with all the conditions laid down in the Environmental Clearance issued by the Ministry of Environment and Forests, Govt. of India.

5. Adequate facilities shall be provided to the Board staff for collection of the discharge samples.

6. The roads in mining areas shall be sprinkled with water to suppress dust pollution.

7. The mining companies shall provide with wheel washing station with tyre sprinkler and shallow pond with running water.

8. Sufficient filter beds shall be provided around reject dumps for settlement of suspended particles and to prevent siltation.

9. Coursing of water down the slope to the settling ponds.

10. The tailing pond water let out from the beneficiation plants shall meet the standards as specified in the Consent to operate issued by the Board.

11. To prevent siltation of rivers/ nallahs/ fields catch drains and siltation ponds should be constructed. The water collected should be utilized for watering the mine area, roads and green belt development. Garland drains to be provided around the reject dumps.

12. Hydro geological studies to be carried out (quality and quantity) including impact of mining on the hydro geology (pre monsoon, monsoon and post monsoon)

Member Secretary
Goa State Pollution Control Board

13. The mining companies should meet the water requirements of the nearby villages.

14. Regular monitoring of ground water level and quality should be carried out in all seasons.

15. The companies should submit the pumping schedule for pumping the rain accumulated water from the mining pit.

16. The mining industry shall strive to implement suitable conservation measures to augment ground water resources wherever possible in the area.

17. The water pumped from the mining pit should be stored in re-charging ponds for the benefit of the villagers in the surrounding areas.

18. The company should maintain a pumping Log book in the following format:

Sr. No.	Capacity of the pump (litres/min)	Date	Start time	Start time R.L	End time	End time R.L	Duration of pumping (in minutes)	Qty. of water pumped in KLD	Remarks

19. The company should submit details regarding production of iron ore produced and the over burden generated in a month by 10th of the succeeding month.

20. The mining company shall obtain Environmental Clearance / Consent to Operate for the loading facilitates/ jetties utilised for transportation of iron ore through barges.

21. The company should not stack their ore/ and or ore over burden in the close vicinity of water bodies like river lakes, streams (perinial or otherwise)

22. Any up-set condition in any plant of the factory, which is likely to result in, increased effluent discharge and /or violation of the standards stipulated above shall be immediately reported to the Board office.

23. Reliable flow meter shall be installed to maintain record of water consumption per day. The records so maintained shall be made available to the Board officials whenever required.

24. The Board shall be forthwith informed of any accident or unforeseen event involving discharge of any poisonous, noxious or polluting matter into a stream or well or on land and the action initiated to curb the resulting pollution.

Member Secretary
Goa State Pollution Control Board

25. A good house-keeping shall be maintained within the mining lease area.

26. The mining company should carry out plantation in 33% of the mining lease area.

27. All the Solid wastes arising in the premises shall be properly classified and disposed off to the satisfaction of the Board by:
   i) Landfill, incase of inert materials, care should be taken to ensure that the material does not give rise to leachate which may percolate into ground water or carried away with storm run-off.
   ii) Controlled incineration wherever possible in case of combustible organic matter.
   iii) Composting in case of bio degradable material
   iv) As per the Authorization issued by this Board in case of Hazardous waste.

28. An application in prescribed form along with the prescribed fees for renewal of Consent shall be submitted before the expiry of validity of this renewed Consent. An application for renewal of Consent submitted after expiry of the validity shall accompany with penalty of 50% of the Consent fees in addition to the prescribed consent fees.

29. **The Industry should submit an Environmental Statement in Form V for the Financial Year April to March by 30th September of the succeeding year.**

30. The applicant shall comply with the provisions of the Water (Prevention & Control of Pollution) Cess Act, 1977, as amended (to be referred as Cess Act) and the Rules there under:
The applicant shall submit Water Consumption statement every month so as to reach this Office on or before the 5th of the succeeding month in the prescribed form and pay the Cess as specified under Section 3 of the Cess Act:

31. This Consent is granted without any prejudice to any of the permission(s) required under any law, by laws and regulations in force.

32. ***The Environmental Clearance granted to this mining lease by the Ministry of Environment and Forests does not mention Forest Area within the lease. However, the Sawant and Karapurkar Committee has identified part of the area of the mining lease as private forest within the lease. This consent is valid only in those areas of the lease which is not identified as a private forest. No activity should be carried out in the area identified as private forest without obtaining prior Clearance as prescribed under the Forest Conservation Act.***

Member Secretary
For GOA STATE POLLUTION CONTROL BOARD

To,
Shri Hiralal Khodidas,
C/o Casa Auto Moderna,
Near Sanvordekar petrol pump, Curchorem-Goa 403706
Copy to:- Concerned File & Guard File

Disposed
12/11/09

IN THE HIGH COURT OF BOMBAY AT PANAJI, GOA

Misc Civil Appln No 820/2009
In
Writ Petition No 136/2008

Rama Ladu Velip & ors ... Petitioners

V/S

State of Goa & ors. ...Respondents

INDEX

S.NO	DESCRIPTION	... PAGES
1.	Application for modification and recall of the order dated 14/09/2009	... 1 - 4
2.	Order dated 14/09/2009	... 5 - 11
3.	Affidavit in reply filed by the Respondent No 2 in the main Petition as per the orders of this Hon'ble Court.	... 12 - 22
4.	Affidavit	... 23 - 23

Panaji, Goa
05/10/2009

Adv Joseph Vaz

IN THE HIGH COURT OF BOMBAY AT PANAJI, GOA

Misc Civil Appln No /2009

In

Writ Petition No 136/2008

1. Rama Ladu Velip
r/o Colomba Village
Sanguem, Goa.

2. A Prabhudessai
r/o Colomba Village
Sanguem, Goa.

3. Goa Foundation
A society registered under the
Societies Registration Act, 1960
Through its Secretary, Dr Claude Alvares
And having its registered office
At Room 7, above Mapusa Clinic
Mapusa, Goa. ... Petitioners

V/S

1. State of Goa through
Its Chief Secretary
Government of Goa
Secretariat, Porvorim, Goa.

2. Union of India through Secretary
Ministry of Environment & Forest
Government of India, Paryavaran Bhavan
CGO Complex, Lodi road
New Delhi 110 003

3. The Secretary
Ministry of Mines
Government of India
Udyog Bhavan, New Delhi.

4. Chief Town Planner
Government of Goa
Town & Country Planning Dept
Panaji, Goa.

5. The Chief Conservator of Forests
Forest Department
Gomantak Maratha Mandir, Panaji, Goa.

6. The Goa State Pollution Control Board
Through its member Secretary
Dempo Tower, Patto, Panaji, Goa.

7. The Director of Mines & Geology
Udyog Bhavan
Panaji, Goa.

8. The Regional Controller of Mines
Fatorda, Margao, Goa.

9. The Collector
South Goa
Office of the Collector, Margao, Goa.

10. Panchayat of Colomba Rivona
Through its Secretary
Colomba, Sanquem, Goa.

11. Hiralal Khodidas, Mine Owner
Caza Auto Moderna
Curchorem, Goa 403 706

12. Sociedade Fomento Industrial
Villa Flores, EC Street
Margao, Goa. ... Respondents

The Secretary
Ministry of Environment & Forest
Government of India, Paryavaran Bhavan
CGO Complex, Lodi road
New Delhi 110 003
Through Shri Ansar Ahmed
Inspector General of Forest
Ministry of Environment & Forest. ... Applicant
New Delhi

APPLICATION TO RECALL THE ORDER DATED 14 / 09 / 2009 IMPOSING COST OF Rs 10,000 /-

MAY IT PLEASE YOUR LORDSHIP

The Applicant state and submit as under:-

1. In the above said case, this Hon'ble Court has been pleased to pass an order on 14 / 09 / 2009 imposing cost of Rs. 10,000 /-

to be paid by a person officiating as Secretary (Ministry of Environment and Forest) personally.

2. The above matter was not brought to the notice of the Secretary (Ministry of Environment and Forest) because as a matter of procedure the files are processed by concerned divisions in the Ministry of Environment and Forests with the approval of the Division In – Charge

3. In the present case there were 2 divisions involved one is the Impact Assessment Divisions and the other is the Forest Conservation Divisions. All the matters are not dealt with, by the Secretary (Ministry of Environment and Forest).

4. The above said matters were referred by the Impact Assessment Divisions to the Forests Conservation Divisions on 24 / 07 / 2009 in view of these facts three weeks time was sought from this Hon'ble Court, and this Hon'ble Court was pleased to grant.

5. Thereafter the Forests Conservation Divisions wanted two months time for themselves to ascertain the matter on account of which the said letter dated 02 / 09 / 2009 seeking time from this Hon'ble Court was written by Mr. K.S. Reddy, Chief Conservation Officer (Central), to the Central Government Counsel.

6. Under the circumstances it is humbly and respectfully submitted that this Hon'ble Court may be pleased to reconsider and recall that portion of the order dated 14 / 09 / 2009 where upon the cost of Rs. 10,000 /- has been imposed on the Secretary (Ministry of Environment & Forest) personally.

7. The Applicant states that delay in filing the affidavit was on account of the administration exigencies and procedure involved and various divisions in the Ministry, and the same was not intentional or deliberate.

8. The Secretary has filed a separate affidavit in compliance with the orders of this Hon'ble Court dated 14 / 09 / 2009.Copy whereof is annexed and Applicant craves leave refer to help on the same.

Prayer:

It is therefore prayed that the portion of the order dated 14 / 09 / 2009 imposing cost of Rs. 10,000 /- on the Secretary (Ministry of Environment & Forest) May be recalled, in light of the explanation given herein above.

Prayed accordingly

Panaji, Goa
05/10/2009

Shri Ansar Ahmed
Inspector General of Forests
Applicant

IN THE HIGH COURT OF BOMBAY AT PANAJI.

WRIT PETITION NO.722 of 2008 .

Goa Foundation, a Society
registered Under the Societies
Registration Act, 1960 & anr. . Petitioners

Versus

1.The State of Goa
(through the Chief Secretary
and 5 others .... Respondents

Mrs. Norma Alvares, Advocate for the Petitioners.

Mr. A. Kamat, Addl. Government Advocate for the Respondents no.1 and 5.

Mr.A.N.S.Nadkarni, Senior Advocate with Mr. D.Lawande, Advocate for Respondent no.4.

Mr.J.Vaz, Central Government Standing Counsel for Respondents Nos 2 and 3.

Mr. G.Dalal, for Respondent no.6.

WITH

WRIT PETITION NO.136 of 2008 .

Rama Ladu Velip & 2 others. . Petitioners

Versus

1.The State of Goa
(through the Chief Secretary
and 11 others .... Respondents

Mrs. Norma Alvares, Advocate for the Petitioners.

Mr.A.Kamat Addiitonal Governament Advocate for Respondents nos. 1,4,5,7 and 9.

Mr.Amey Phadte, Advocate for the Respondents no.11 .

Mr.A.N.S.Nadkarni, Senior Advocate with Mr. D.Lawande, Advocate for Respondent no. 6.

Mr.J.Vaz, Central Government Standing Counsel for Respondents No. 2 .

CORAM : S.B.DESHMUKH &
U. D. SALVI, JJ.

DATE: 14TH SEPTEMBER 2009.

P.C.

1. Heard the learned counsel appearing for respective parties. This petition is a public interest litigation, concerning the alleged illegal operation of mines in the State of Goa. We have read our own orders dated 25/3/2009 and 7/7/2009. Our Order dated 25/3/2009 para-2 reads that the learned Central Govt. Standing Counsel appearing for respondent no.2 and 3 had submitted that he may be granted some more time to get appropriate instructions in the matter and file an affidavit in reply in that respect. He also informed that the concerned Secretary, Ministry of Environment and Forests would file affidavit before the next date of hearing, so that the matter is not further delayed. Matter was adjourned to 26/3/09. On that day, interim relief was granted by this Court which is restricted. After issuance of Rule, it was ordered to be listed on 16/6/09 for final disposal.

2. On that date, affidavit was presented in the Court on behalf of the Petitioner and matter was adjounred to 7/7/09. Learned

C.G.S.C. for respondent no.2 and 3 requested for grant of some time for filing of the affidavit, which was directed in our order dated 25/3/2009 i.e. the affidavit of the concerned Secretary of Ministry of Environment and Forests. On that occasion learned C.G.S.C submitted before the Court that on account of some administrative problem, he could not obtain the necessary instruction and prayed for four weeks time. However, considering the facts and circumstances, by way of last chance, time was granted till 11/8/09, with further direction to file affidavit and to serve copy of this affidavit on the Petitioner latest by 5/08/09.

3. Thereafter, office report shows that till 11/8/2009 affidavit by learned Secretary of Ministry of Environment was not filed. Matter was adjourned to 14/9/2009 i.e.today. When this matter was called out, on behalf of respondent no.11 in WP No. 136/2008 an affidavit has been filed The same is taken on record. Advocate appearing for respondent no.11 made statement that copies will be served to parties within one week from today. Advocate for

Petitioner has made statement that copy has been received by her. Learned C.G.S.C. requests for two months time. The reason for such longer adjournment is the letter received by him from the Chief Conservator of Forest (C) under the Central Ministry of Environment.

4. C.G.S.C has made available the communication under the signature of Mr. K.S.Reddy Chief Conservator of Forest (C). From this communication, it reflects that earlier grant of time i.e. 3 weeks was communicated by learned C.G.S.C. to the Chief Conservator of Forest. Thereafter, by this communication, it was requested to seek further extension of two months time for filing of reply.

5. We have noticed striking features of this letter i.e. non explanation of grounds for seeking extension of time. Public servant while discharging duty may face various exigencies, difficulties. On perusal of this communication dated 2/9/09, we are of the opinion that it is a routine communication without applying mind to the grievances raised by the Citizen and without considering the earlier

orders passed by this court. On a just and sufficient ground request for adjournment of hearing, by any party can beconsidered. Here is a case that no ground is mentioned nor indicated in the letter. It seems to be very casual and callous attitude on the back ground fact that adjournment on last occasion was by way of last chance. It seems to be intentional move to stall the hearing of the petition wherein interim reliefs is in favour of one party and against the Petitioner. We are in fact not inclined to adjourn the hearing of this public interest litigation, but to accommodate public servant and in the interest of justice we are considering the request. Even though we have granted last chance to Ministry of Environment and Forests, by our earlier order, we are inclined to grant one more adjournment, however, by imposing cost of Rs.10,000/- to be paid by the person officiating as Secretary (Ministry of Environment & Forests) from his own pocket. Needless to mention that this amount shall not be reimbursed. Payment of costs by the public servant in a case in hand, in our view, may not be sufficient. The mining

operations permitted by this Court are untiringly going on. For the present, we are inclined to grant two weeks time for filing of affidavit on imposing costs of Rs.10,000/-,we further would like to direct the Officer concerned that on the failure of the part of the Officer, to file affidavit before next date. He shall personally remain present before this Court with all papers. His entitlement for claiming traveling and dearness allowance shall be considered by this court on the adjourned date and appropriate orders will be passed. C.G.S.C. to communicate this order with acknowledgment due to the Secretary Ministry of Environment and Forest. 6/10/09 is the date convenient to all the parties and all the Advocates in this matter. This grant of time to be considered as an exceptional circumstance.

S.B.DESHMUKH,J.

U.D.SALVI, J.

AD*

IN THE HIGH COURT OF JUDICATURE AT BOMBAY (GOA BENCH AT PANAJI)

WRIT PETITION NOS. 722/2008 & 136/2008

WRIT PETITON NO. 722/2008

Goa Foundation through
Secretary Dr. Claude Alvares
& Ors. ...Petitioners

Versus

State of Goa through Chief
Secretary and Ors. ...Respondents

AFFIDAVIT – IN – REPLY ON BEHALF OF RESPONDENT No 2.

I, Vijai Sharma, the Secretary, Ministry of Environment and Forests, Government of India having my office, at Paryawaran Bhavan, CGO Complex, Lodhi Road, New Delhi 110 003, hereby state on solemn affirmation as under :-

1. At the outset I say that I have not been kept informed of the proceedings in the aforesaid matter. I was informed of the order of this Hon'ble Court dated 14.9.2009 only on 22.9.2009 and also informed that the Ministry of Environment and Forests had not filed an affidavit clarifying it's stand on the guidelines and clarifications issued under the Forest (Conservation) Act ,1980 by the Ministry of Environment and Forests .

(VIJAI SHARMA)
Secretary
Min. of Env. & Forests
Govt. of India, New Delhi

2. Save and except as stated below, I have not been concerned with the subject matter of the Petition and I am, therefore, not familiar with the allegations made in the Writ Petition. I assure this Hon'ble Court that a senior officer of the Ministry of Environment and Forests who is well conversant with the matter will file a further affidavit on behalf of the Ministry of Environment and Forests prior to the next date of hearing fixed on 06.10.2009.

3. I make this affidavit out of respect for and in deference to this Hon'ble Court and to obey its order dated 14.09.2009.

4. I unconditionally apologize for myself and on behalf of the Ministry of Environment and Forests for the fact that save and except an affidavit dated 19.2.2009, made by Dr. U. Shridharan (Additional Director, Ministry of Environment and Forests posted at Regional Office at Bangalore) no further affidavit has been filed by Ministry of Environment and Forests as directed by the Hon'ble Court . I humbly request this Hon'ble Court to accept my apology and I assure this Hon'ble Court that I will ensure that a senior officer makes a further affidavit prior to 06.10.2009 so that the stand of the Ministry of Environment and Forests in respect of the

(VIJAI SHARMA)
Secretary
Min. of Env. & Forests
Govt. of India, New Delhi

matters raised in the petition is placed before this Hon'ble Court without any further delay.

5. I am informed by my officers that this Hon'ble Court requires the Ministry of Environment and Forests to clarify it's stand on the Guidelines including in particular the guideline para 4.4 of which is reproduced hereunder:

4.4 ***Projects involving forest as well as non - forest land***

Some projects involve use of forest land as well as non-forest land. State Governments/ project authorities sometimes start work on non- forest land in anticipation of the approval of the Central Government for release of the forest lands required for the projects. Though the provisions of the Act may not have technically been violated by starting of work on non - forest land, expenditure incurred on works on non - forest land may prove to be infructuous if diversion of forest land involved is not approved. It has, therefore, been decided that if a project involves forest as well as non - forest land, work should not be started on forest land till approval of the Central Government for release of forest land under the Act has been given".

(VIJAI SHARMA)
Secretary
Min. of Env. & Forests
Govt. of India, New Delhi

6. I am informed by my officers that Dr. U. Sridharan, Addl. Director at Regional Office, Bangalore personally visited the site of Devapan Dongor Iron and Manganese Ore Mine at Village Caurem, in Quepem Taluka in Goa on 22.10.2008. He prepared a report which he forwarded to Shri W. Bharat Singh, Dy. Director in the Ministry of Environment and Forests under cover of his letter dated 27.10.2008. I, annexe hereto a copy of the said letter dated 27.10.2008 along with the report of the site visit which was annexed thereto. I am informed that on the basis of this report, the Ministry of Environment and Forests was satisfied that the said mine was an existing mine in operation. I am informed that by an application dated 20.05.2008 Respondent no. 6 made an application for increasing the production of the existing mine.

7. I am given to understand that no application has been made by the said Respondent for carrying out any non - forest activity in the forest area which forms part of the total area covered by the mining lease as stated in the affidavit dated 19.2.2009 filed by Dr. U. Shridharan Addl. Director, on behalf of the Ministry of Environment and Forests.

8. Environment Clearance was given by the Ministry of Environment and Forests vide it's letter dated 08.09.2008 under the Environment Impact Assessment

(VIJAI SHARMA)
Secretary
Min. of Env. & Forests
Govt. of India, New Delhi

Notification dated 14.09.2006, issued under the Environment (Protection) Act, 1986. This was after the procedure required under the said notification was complied with including holding of a public hearing.

9. The said Environment Clearance had received my concurrence which I had given based on the recommendations of the Expert Appraisal Committee constituted by the Ministry of Environment and Forests.

10. The Guidelines including those contained in para 4.4 can be deviated from in a given case if the facts and circumstances warrant and where such deviation is not arbitrary . However, in the instant case I am informed that no mining activity is being carried on the forest land that forms part of the mining lease. Guideline 4.4 would apply in the case of a new project which involves commencement of work on both forest and non - forest land. In the present case as stated hereinabove, the mine has been in operation since 2006-2007 at least on non - forest land and in such cases the said guideline would not apply to prohibit any mining work on the non - forest land.

11. I may also state that the Ministry of Environment and Forests has not received any application from the Government of Goa for grant of any clearance under Section 2(iii) of the Forest (Conservation) Act, 1980 in

(VIJAI SHARMA)
Secretary
Min. of Env. & Forests
Govt. of India. New Delhi

respect of the mine or the lease in respect of the mine in the present petition.

12. Under these circumstances I humbly and respectfully request this Hon'ble Court to reconsider and recall that portion of the order dated 14.09.2009 whereunder costs of Rs. 10,000/- have been imposed on me personally. I also further respectfully pray that this affidavit be accepted and that my personal presence before this Hon'ble Court be dispensed with . I am required to attend important meetings in the UN headquarters at New York and with U.S. Government representatives in Washington during the week of 28.09.09 to 2.10.09, immediately followed by meetings during the week of 05.10.09 to 09.10.09 of the National Ganga River Basin Authority chaired by Prime Minister, of which I am the Member-Secretary and, expectedly, of the Department related Parliamentary Standing Committee to discuss significant legislative matters .

13. However, I assure this Hon'ble Court that a senior officer from the Ministry of Environment and Forests will not only file a further affidavit prior to 06.10.2009 but will also be personally present when this matter is heard by this Hon'ble Court .

14. I state that whatever is stated by me in the foregoing paragraphs no. 5 to 8 and 10 to 11 are based on the

(VIJAI SHARMA)
Secretary
Min. of Env. & Forests
Govt. of India. New Delhi

information derived from records suggested to me by my officer which I believe to be true. What is stated in paragraphs in 1,2,3,4, 9,12 &13 ~~to~~ are true to my knowledge .

Solemnly affirmed at Delhi)

Dated this 26 day of September)

2009)

)....Deponent

(VIJAI SHARMA)
Secretary
Environment & Forests
Govt. of India, New Delhi

Advocate for

Before me

स्पीड डाक द्वारा
BY SPEED POST

BY SPEED POST

EP/12.1/179/ Goa / 3145

Government of India
Ministry of Environment and Forests
Regional Office (South Zone)

Kendriya Sadan, IV Floor.
E & F Wing, 17th Main Road, 2nd Block.
Koramangala, BANGALORE-560 034

Dated: 27th October 2008

To.

Mr W. Bharat Singh,
Deputy Director (IA),
Ministry of Environment and Forests,
Paryavaran Bhawan, CGO Complex,
Lodhi Road, New Delhi –110 003

Subject: Clarification on Status of mining of 1) Devapan Dongor Iron and Manganese ore mining project of Shri Shaikh Salim and 2) Chuninimola Iron Ore mining projects of M/s Shantilal Khushaldas & Bros. (P) Ltd in South Goa- regarding

Sir,

This is in response to the Ministry of Environment & Forest's letter No J-15012/39/ 2007-IA-II (M) dated 7th October 2008 on the above-mentioned subject, the undersigned is directto enclose herewith the site visit report of these projects for necessary action at your end.

Yours faithfully

(U. Sridharan)
Additional Director

Encl: as above

Copy to. The Chairmen, Goa State Pollution Control Board, Dempo Towers, I floor, EDC PLAZA, Patto, Panaji 403 001 Goa for kind information..

20

Devapan Dongor Iron and Manganese ore mining project of Shri Shaikh Salim and Chuninimola Iron Ore mining projects of M/s Shantilal Khushaldas & Bros. (P) Ltd in South Goa- site visit report

In response to the Ministry of Environment & Forest's letter No J-15012/39/ 2007-IA-II (M) dated 7th October 2008 and as per the direction of the CCF (C) of the Southern Regional Office, a site visit was carried out to find out the factual position regarding two mining projects in South Goa on 22nd October 2008. The site visit was organized jointly along with the following officials:

1. Mr Sailesh Vaigankar, JEE, Goa State Pollution Control Board
2. Mr Sajid Inamdar, JLA Goa State Pollution Control Board
3. Mr Jayant Sirsat, Asst. Geologist, Mines & Geology Dept., Govt. of Goa
4. Mr Suraj Kalgutkar, TA Mines & Geology Dept., Government of Goa

After the site visit, discussions were held along with Sri A.B. Panigrahi, Regional Controller of Mines in his office at Margao on 22nd October 2008, the Chairman, Member Secretary of the Goa State Pollution Control Board and the Director Mines & Geology Dept., Government of Goa on 24th October 2008.

Both the projects viz. Devapan Dongor Iron and Manganese ore mining project of Shri Shaikh Salim and Chuninimola Iron Ore mining projects of M/s Shantilal Khushaldas & Bros. (P) Ltd were not in operation during the site visit. The details collected for these mines during the visit are described in this report.

<u>Chuninimola Iron Ore Mine of M/s Shantilal Khushaldas Bros Pvt Ltd.</u>

The team visited site of Chuninimola Iron Ore Mine first. No mining operations are being carried out at present in this mine. Mr S.N. Naik Chief Suprintendent Mines of M/s Shantilal Khushaldas Bros Pvt Ltd was at the site and explained the details of this mine to the team.

This mine lease is located in Rivona village, Sanguem Taluka, South Goa district of Goa and is having an area of 42.91 ha (The lease area was granted under Title Concession No 28 of 1952). Now, from this mine, the project authority is proposing to mine 0.2 Million Tonnes/annum of iron ore. The mine was earlier in operation from 1965 to 1986 and was closed due to less demand of low grade iron ore fines. The project authorities have duly applied for the renewal of mining lease in November 1987 for 20 years and now in November 2007 for 20 more years i.e. up to November 2027. Simultaneously the project authorities have started the process of obtaining the environmental clearance from the Ministry of Environment and Forests. Along with the process of

obtaining the environmental clearance they have started the preliminary preparations to start the mining operations after getting the environmental clearance. Accordingly they have given notices to the Director of Mines Safety (Goa Region) relating to the opening notice in Form No -1, appointment of mines manager, appointment of agent and permission under Regulation 106 (2) (b) of the Metalliferous Mines Regulation, 1961 to use heavy earth moving machinery without deep hole drilling and blasting. They have also obtained permission of fell trees from the forest department. They have submitted Forest clearance proposal also under Section-2 of the Forest Conservation Act 1984 for the forest area coming under this mining lease. The project authorities have informed that they have not started their mining operations from this mine and not produced any, thus they have not submitted any monthly/ quarterly/ annual returns to any authority. This was duly verified from Sri A.B. Panigrahi, Regional Controller of Mines from his office at Margao and from the Mines & Geology Department of the Government of Goa. The Goa State Pollution Control Board is yet to give their consents for this mine; it was informed that GSPCB will consider the issue of consent after the project obtains their environmental clearance from the Ministry of Environment and Forests.

Chuninimola Iron Ore Mine is having old worked pits, lumpy stocks and rejection dumps. It was informed that by the project authorities that some iron ore trading agencies have started pilfering low grade ore from un-attended old non working mines, due to the iron ore export boon for all type & sizes of ore. From this mine also some clandestine robbing of iron ore took place during 2005-2006 and the project authorities realised the situation only after 6-8 months and started taking corrective action by shifting machinery, erecting obstacles on road to put barricade on roads leading to pits, lumpy ore stocks and rejection dumps. They have purchased private property within and surrounding the lease area. It was informed that since the old rejection dumps and old lumpy ore stock were disturbed, they have undertaken protective measures like construction of laterite parapet wall, cutting trenches for drainage to course the monsoon water into the pit, regarding of disturbed dumps etc and they have used machinery for these jobs, by using mobile screens they have handled the disturbed old lumpy stocks to screen & size them. Presently, the project authorities have shifted all the machinery from this mine area, production has not started so far from this mine. Earlier the project authorities have initiated preliminary activities at site, to start mining immediately after obtaining necessary clearances. Now, at the site no activity or no mining operations are going on. No returns are submitted by the project authorities to the regional controller of Mines and to the Mines Department of the Government of Goa by the project authorities.

Devapan Dongor Iron and Manganese ore mine is held by Shri Shaikh Mohamad Isaac now with his son Shri Shaikh Salim.

The team subsequently visited the Devapan Dongor Iron & Manganese Ore mining lease located in Caurem village, Quepem Taluka, South Goa district, Goa This mining lease is having an area of 83.0 ha (The lease area was granted under Title Concession No. 01 of 1951). This mine is intended to produce 0.3 MTPA of iron ore and 0.011 MTPA of manganese ore from the proposed Devapan Dongor Mine. Ministry of Environment and Forest has granted the environmental clearance only for iron ore mining vide ref J-11015/ 953/2007-IA-II (M) dated 08th September 2008.

At the time of inspection the mine was not in operation. Mr. P.A. Fernandas Geologist and Mr Prasant Naik Administrator of the mine were at the site during the site visit and explained the details for this mine.

The project authorities have duly applied for the renewal of the mining leases on time and their fresh mining plan is approved in October 2007 for 20 years. The project authorities have informed that they have produced some Manganese ore up to 2006 and in 2007 they have produced Iron ore to the extent of 17000 tones on an understanding that production is not exceeding pre 1994 production levels of the old lease period and the mining operations have stopped since November 2007. Necessary returns are filed by the project authority to the concerned authorities. This project has obtained environmental clearance in September 2008 and the Goa State Pollution Control Board has given the consent to establish and they are yet to give their consent to operate for this mine.

Subsequent to the site visit, discussions were held with Sri A.B. Panigrahi, Regional Controller of Mines in his office at Margao, who informed that the annual return submitted by the project authority for 2007-2008 shows the mine worked for 68 days with a production figure of 17000 Tonnes. Similar figure was filed by the project authority to the Director, Mines & Geology Department of the Government of Goa. During discussions with Mr Hector C.M.C. Fernandes, & Mr Jayant Sirsat, Geologists in the Mines Department Government of Goa, it was informed that they have some old records of production figures for various mines. For this mine production figures are available from 1956 to 1965 and they have informed that this mine has produced 17100 Tonnes in 1960.

(Dr U. Sridharan)
Additional Director

IN THE HIGH COURT OF BOMBAY AT PANAJI, GOA

Misc Civil Appln No /2009
In
Writ Petition No 136/2008

Rama Ladu Velip & ors ... Petitioners

V/S

State of Goa & ors. ...Respondents

AFFIDAVIT

I, Shri Ansar Ahmed, major age, and an Indian national, working as Inspector General of Forests, in the Ministry of Environment and Forests, Government of India having my office, at Paryawaran Bhavan, CGO Complex, Lodhi Road, New Delhi 110 003, hereby state on solemn affirmation as under :-

1. That I am well conversant with the facts of the above case and I am duly authorized to file the present application

2. That the contents of the application may be read as part and parcel of the present affidavit and the same have not been repeated for the sake of brevity

I the deponent above named on solemn affirmation state that the contents of the paras 2 to 8 of the application to recall the order are based on the information derived from the record and rest of the paras are legal submissions.

Solemnly affirmed on this 5th day of October 2009 at Panaji, Goa.

Shri Ansar Ahmed
Inspector General of Forests
Applicant

IDENTIFIED BY:

Disposed
17/11/09

IN THE HIGH COURT OF BOMBAY AT PANAJI, GOA

Misc Civil Appln No /2009

In

Writ Petition No 722/2008 &

Writ Petition No 136/2008

Goa Foundation & ors ... Petitioners

V/S

State of Goa & ors. ... Respondents

With

Ram Ladu Velip & ors ... Petitioners

V/S

State of Goa & ors. ... Respondents

Secretary
Ministry of Environment & Forest
New Delhi ... Applicant

INDEX

S.NO	DESCRIPTION	... PAGES
1.	Application to recall the order dated 14/09/2009 and refund of the cost of Rs 10,000/-	... 1 - 4
	Order	5 - 11
2.	Affidavit	... 12 - 12

PANAJI, GOA
13/11/2009

ADV JOSEPH S VAZ

IN THE HIGH COURT OF BOMBAY AT PANAJI, GOA

Misc Civil Appln No. /2009

In

Writ Petition No. 722/2008 & Writ Petition No. 136/2008

1. Goa Foundation
A Society registered under the
Societies Registration Act, 1960
Through its Secretary, Dr Claude Alvares
And having its registered office
At Room 7, above Mapusa Clinic

Mapusa, Goa & others ..... Petitioners

V/S

State of Goa & Others ..... Respondents

With

Ram Ladu Velip & ors .....Petitioners

V/S

State of Goa through Chief Secretary
And others .....Respondents

The Secretary
Ministry of Environment & Forests
Government of India, Paryavaran Bhavan
CGO Complex, Lodi Road
New Delhi ..... Applicant

APPLICATION TO RECALL THE ORDER DATED 14TH SEPTEMBER, 2009 AND REFUND OF THE COST OF RUPEES TEN THOUSAND (10,000)

1. The Applicant states and submits that pursuant to the order dated 14th September 2009, passed in the above Writ petition, this Hon'ble Court was pleased to grant one last opportunity to the Ministry of Environment and Forests to present its stand, by imposing costs of Rs. 10,000 to be paid by the person officiating as Secretary (Ministry of Environment and Forests)

(VIJAI SHARMA)
Secretary
Min. of Env. & Forests
Govt. of India, New Delhi

from his own pocket, with a further direction that the amount shall not be reimbursed. This Hon'ble Court was also pleased to grant two weeks time for filing of affidavit, which was required to be filed before the next date, failing which this Hon'ble Court was pleased to direct personal presence of the concerned official with all papers.

2. The Applicant filed an affidavit dated 26th September 2009, placing on record the stand of the Ministry. It was also undertaken in the said affidavit that a further affidavit would be filed by the concerned officials, to meet the averments raised in the petition. The Applicant herein reiterates each and every averment set out in his Affidavit-in-reply dated 26th September 2009 and craves leave to refer to rely on the same for the purposes of consideration of the present Application.

3. Furthermore, a sum of Rs. 10,000 has also been deposited in this Hon'ble Court on 6th October 2009, in compliance with the undertaking given in the affidavit dated 5th October 2009 which has been sworn by Ansar Ahmed, Inspector General of Forests, of this Ministry.

4. The Applicant reiterates that he was not informed of the proceedings in the above matter and save and except as has been mentioned in the said Affidavit dated 26th September 2009. The Applicant was not directly concerned with the subject matter of the Petition and was not familiar with the allegations made in the Petition and to the extent that the applicant herein had given concurrence for environment clearance as mentioned in the affidavit dated 26th September 2009, the Applicant was otherwise not dealing with the matter personally.

Vijai Sharma

(VIJAI SHARMA)
Secretary
Min. of Env. & Forests
Govt. of India, New Delhi

5. The Applicant herein states and submits that he was required to attend important meetings at the United Nations headquarters at New York and with the representatives of the United States Government in Washington during the week of 28th September 2009 to 2nd October 2009 and was occupied by meetings during the week 5th October 2009 to 9th October 2009 of the National Ganga River Basin Authority chaired by the Hon'ble Prime Minister of which the Applicant is the Member Secretary and, at that time, was also expecting to attend Parliamentary Standing Committee meetings to discuss significant legislative matters and hence was not in a position to make any application at an earlier point of time.

6. On behalf of the Ministry, an application dated 5th October 2009 was moved in the above petition, seeking to recall the order dated 14th September, 2009 imposing costs of Rs. 10,000 on the Applicant. I am informed that this Application has now been slated for hearing on 17th November, 2009.

7. The Applicant herein states and submits not being directly concerned with the said matter; he was not aware of the orders passed by this Hon'ble Court from time to time and also of the directions issued with regards the above Writ Petition except as mentioned in the affidavit dated 26th September, 2009.

8. The Applicant herein states and submits that the direction with regard to imposition of personal costs is punitive in nature. The Applicant herein most respectfully states and submits that he wishes to have the opportunity of hearing before this Hon'ble Court which will enable the Applicant to place before this Hon'ble Court all the relevant facts.

(VIJAI SHARMA)
Secretary
Min. of Env. & Forests
Govt. of India. New Delhi

9. The Applicant herein respectfully submits that there was no deliberate and/or wilful or intentional delay in filing the affidavit. The Applicant relies on the affidavit dated 5th October 2009 of Shri Ansar Ahmed, Inspector General of Forests, in this regard.

10. The Applicant herein respectfully states and submits that since there is absolutely no personal involvement of the Applicant and/or interest of the Applicant in the above petition as set out hereinabove, the present application is being filed, for passing appropriate orders / directions to recall the order dated 14 September 2009 and return to the Applicant, the amount of Rupees 10,000.00 as costs deposited by him in his personal capacity. The Applicant again apologizes for the delay on the part of the Ministry in filing the said Affidavit.

PRAYER

Applicant therefore respectfully prays that your Lordships be pleased to recall the order dated 14th September, 2009 inter-alia imposing personal costs on the Applicant and thereby direct that the costs of Rs.10, 000.00 deposited in this Hon'ble Court in the above Writ Petition, be directed to be returned to the Applicant.

New Delhi.

Date:

(VIJAI SHARMA)
Secretary
Ministry of Environment & Forests
Government of India

(VIJAI SHARMA)
Secretary
Min. of Env. & Forests
Govt. of India, New Delhi

IN THE HIGH COURT OF BOMBAY AT PANAJI, GOA

In the matter of Misc Civil Appln No /2009

In

Writ Petition No. 722/2008 & Writ Petition No. 136/2008

Goa Foundation
A Society registered under the
Mapusa, Goa & others ..... Petitioners

V/S

State of Goa & Others ..... Respondents

With

Ram Ladu Velip & ors .....Petitioners

V/S

State of Goa and others .....Respondents

Secretary
Ministry of Environment & Forests
Government of India, Paryavaran Bhavan
CGO Complex, Lodi Road
New Delhi ..... Applicant

AFFIDAVIT IN SUPPORT OF THE APPLICATION

I Vijai Sharma, major age , and an Indian national working as Secretary in the Ministry of Environment and Forests , Government of India , New Delhi, having my office at Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi 110003. , hereby state on solemn affirmation as under :

1. That I am competent to file the present application and the contents thereof are not being repeated for the sake of brevity.

2. That the contents of the application may be read as part and parcel of the present affidavit.

3. I the deponent above named on solemn affirmation state that the contents of the paras 2 to 10 of the application to recall the order are based on information derived from the record and rest of the paras are legal submissions.

4. That the facts stated hereinabove are true to the best of my knowledge and belief and nothing material has been concealed therein.

Vijai Sharma
DEPONENT

Solemnly affirmed before me on this ..... day of November, 2009 at New Delhi by the Deponent who has been identified by me.

OATH COMMISSIONER

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

GOA BENCH, AT PANAJI

Writ Petition No. 136 of 2008

Rama Ladu Velip & ors.)... Petitioners

v/s

State of Goa and ors)... Respondents

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

GOA BENCH, AT PANAJI

Writ Petition No. 136 of 2008

Rama Ladu Velip & ors.)... Petitioners

v/s

State of Goa and ors)... Respondents

INDEX

Sr.No.	Description	PAGES
1.	Memo of Petition	1-26
2.	Annexure 1: Report of Goa Foundation dated 31.12.2007	27-32
3.	Annexure 2: Mining lease map of Colomba Village	33
4.	Annexure 3: Form III (extract)	34-35
5.	Annexure 4: Report of CCF dated 26.6.06	36-40
6.	Annexure 5: Order dated 2.7.2003	41-46
7.	Annexure 6: Inspection report and offences registered by Forest Dept.	47-50
8.	Annexure 7: Forest Dept letter dated 26.7.07	51
9.	Annexure 8: Form I & XIV	52
10.	Annexure 9: EIA committee minutes (extract)	53

11.	Annexure 10: Environment clearance order dated 12.3.2007	54-59
12.	Annexure 11: Reports of ZAO	60-63
13.	Annexure 12: Gram Sabha resolution dated 3.2.08	64
14.	Annexure 13: Supreme Court orders in writ petition No.460/2004	65-69
15.	Annexure 14: Notice to CS dtd. 16.2.2008	70-71

Panaji dated 5. 3. 2008 Advocate for petitioners

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

GOA BENCH, AT PANAJI

CIVIL

Writ Petition No. 136 of 2008

SYNOPSIS CONSISTING OF CHRONOLOGY OF DATES AND EVENTS

Sr. No	Date	Particulars of events or documents if any	Annexure & Page	Remarks (if any)
1	1949	Mining lease granted by Portuguese colonial regime for manual mining of manganese		
2	1987	Respondent makes application for renewal of lease for 10 years		
3	7.12.1990	Lease deed executed		
4	1994	EIA notification comes into force		
5	12.12.96	Order in *Godavarman* prohibiting activities in forest areas without regard to ownership		
6	21.11.1997	Mining lease expires. Application for renewal filed		
7	2002	Sawant/Karapurkar committee reports identify lease area as having private forest		

8	2.7.2003	High Court prohibits land use change or development in Sawant/Karapurkar identified plots	Ann.5 Pg.41	
9	12/19 April 2004	Zonal Agriculture Office records serious threat to agriculture if mining continues at Colomba	Ann.11 Pg.60	
10	2004	Goa Foundation files Art. 32 petition against post-facto environment clearances. Union government files affidavit that no further post-facto clearances will be granted		
11	2005	Pollution Control Board grants consent to establish		
12	21.2.2005	Supreme Court order banning operation of units without environment clearance	Ann.13 Pg.65	
13	11.3.2005	Supreme Court order banning operation of units without environment clearance	Ann.13 Pg.66	
14	31.8.2005	Public hearing on mining production expansion held. Villagers oppose		
15	30.1.2006	Supreme Court order banning operation of units without environment clearance	Ann.13 Pg.68	

16	September 2006	Illegal mining commences		
17	November 2006	Villagers file complaints against illegal blasting		
18	2007 throughout	Complaints to various authorities to stop illegal mining		
19	12.3.2007	Environment clearance granted by MoEF	Ann.10 Pg.54	
20	25.7.2007	Forest Department writes to Director of Mines seeking mine closure because of violations. No action.	Ann.7 Pg.51	
21	21.11.07	Mining lease period expires		
22	31.12.07	Goa Foundation visits 12 mines including impugned mine and files report with various authorities	Ann.1 Pg.27	
23	14.12.07 & 3.2.2008	Gram sabha rejects mining as it conflicts with village development plan	Ann.12 Pg.64	
24	11.2.2008	Goa Foundation once again visits Forest Department and Colomba village for latest position on lease		
25	16.2.2008	Goa Foundation sends notice to Chief Secretary	Ann.14 Pg.70	
26	March 2008	Writ Petition is filed		

POINTS TO BE HEARD

1. The grievance of the petitioners is that mining activities on a mining lease at Colomba village have commenced without prior approvals under the Forest Conservation Act, 1980. Mining is also being carried out without sanction of the Mines and Minerals (Regulation and Development) Act, 1957 and MCR Rules 1960 and other laws. Approvals have been granted without the authorities considering the impacts of the mining operations on the life and livelihood of the villagers (majority scheduled tribe) adjoining the lease area or the planned development of the village. The Panchayat of Colomba-Rivona has also passed a comprehensive resolution rejecting operation of mines in the village which is yet to be implemented.

2. The petition seeks closure of the mine and its operations and a writ of mandamus to the government in this respect.

ACTS/ RULES TO BE REFERRED

The Forest Conservation Act, 1980

The Environment Protection Act, 1986

The Goa Town and Country Planning Act, 1974

The Mines and Minerals Act 1957 and MCR Rules, 1960

Goa Land Revenue Code, 1968

Goa Panchayati Raj Act, 1993

AUTHORITIES TO BE CITED

TN Godavarman Thirumulpad v/s Union of India; Order dated 12-12-1996

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

GOA BENCH, AT PANAJI

WRIT PETITION NO. 136 of 2008

IN THE MATTER OF ARTICLE 226 OF THE CONSTITUTION OF INDIA
AND
IN THE MATTER OF ARTICLES 21 AND 51G OF THE CONSTITUTION OF INDIA
AND
IN THE MATTER OF THE FOREST CONSERVATION ACT, 1980 AND THE TOWN AND COUNTRY PLANNING ACT, 1974, THE WATER ACT, 1974, THE AIR ACT, 1981 AND THE EPA, 1986;
AND IN THE MATTER OF THE MMRD ACT, 1957 AND MCR RULES, 1960;
AND IN THE MATTER OF MINING LEASE BEING OPERATED WITHOUT FOREST AND OTHER NECESSARY APPROVALS

1. Rama Ladu Velip, r/o)
Colomba village, Sanguem, Goa.)

2. A. Prabhudesai, r/o)
Colomba village, Sanguem, Goa)

3. Goa Foundation, a society registered under)
the Societies Registration Act, 1960,)
through its Secretary, Dr. Claude Alvares,)
and having its registered office)
at Room 7, Above Mapusa Clinic,)
Mapusa, Goa)..Petitioners

v/s.

1. State of Goa through)
its Chief Secretary)
Government of Goa,)
Secretariat, Porvorim, Goa.)

2. Union of India through Secretary,)
Ministry of Environment & Forests,)
Government of India, Paryavaran Bhavan,)
CGO Complex, Lodi Road,)
New Delhi 110 003.)

3. The Secretary, Ministry of Mines,)
Government of India,)
Udyog Bhavan,)
New Delhi)

4. Chief Town Planner,)
Government of Goa,)
Town and Country Planning Dept.,)
Panaji, Goa.)

5. The Chief Conservator of Forests,)
Forest Department,)
Gomantak Maratha Mandir,)
Panaji, Goa.)

6. The Goa State Pollution Control Board)
through its member secretary,)
Dempo Tower, Patto, Panaji, Goa.)

7. The Director of Mines & Geology,)
Udyog Bhavan,)
Panaji, Goa.)

8. The Regional Controller of Mines,)
Fatorda, Margao, Goa.)

9. The Collector, South Goa,)
Office of the Collector,)
Margao, Goa.)

10. Panchayat of Colomba-Rivona)
through its Secretary,)
Colomba, Sanguem, Goa)

11. Hiralal Khodidas, Mine Owner,)
Caza Auto Moderna ,)
Curchorem, Goa - 403 706)

12. Sociedade Fomento Industrial,)
Villa Flores, EC Street,)
Margao, Goa)....Respondents

(The above are the registered addresses of parties.)

To
The Hon'ble Chief Justice and Companion Judges,
Bombay High Court at Panaji, Goa

THIS HUMBLE PETITION OF THE PETITIONERS
MOST RESPECTFULLY SHEWETH

1. Petitioners Nos.1 & 2 are residents of Colomba village whose right to life, to livelihood and healthy environment, like that of their other co-villagers, has been shattered by the recent operations of a mining lease in their village. They have taken several steps, including several written communications and visits to officials, to protest on behalf of the villagers the blatantly illegal operation of the mining lease in violation of forest norms.

2. Petitioner No.3 is a society registered under the Societies Registration Act. The objects of the petitioner society, amongst others, include appropriate action to halt the ecological degradation of the environment and to formulate and implement programmes for its rehabilitation and restoration. The petitioner has been involved in several PILs before this Hon'ble Court for the protection of the environment. Petitioner No. 3 takes up cases pro bono on behalf of defenseless and unprivileged groups who face serious threats to the environment and livelihood but who do not have either the wherewithal or access to the justice offered by

this Hon'ble Court. Petitioners Nos.1 & 2 and all the members of the petitioner society are Indian nationals.

3. Petitioner No.3 got involved in the present matter in December 2007 when several villagers of Colomba approached the Goa Foundation asking for its assistance since large scale violation of environmental and other norms were involved in the operation of the mining lease TC No.6/49 and the villagers were not conversant with the environment and mining laws and regulations which govern the operations of iron ore leases and mines.

4. This petition is filed in public interest on behalf of the villagers of Colomba. It pleads with this Hon'ble Court that the continuance of the activity of mining on the lease of the Resp. Nos. 11 & 12 is incompatible with the right to life and livelihood of the people of the village of Colomba, most of whom are from the scheduled tribe community and know no occupation other than cultivating their fields. The mining activities are being carried out in violation of the provisions of the Forest Conservation Act, 1980, orders of this Hon'ble Court and Supreme Court, and in violation of other laws as well.

5. The Respondent No.1 is the Respondent State. Respondent No.2 & 3 are authorities from the Central Government granting approvals for mining leases and environment and forest clearance for such leases. Resp.No.4 is the Chief Town Planner of Goa. Respondent No. 5 is the Chief Conservator of Forests.

Respondent No.6 is the agency for control of air, water and noise pollution in the state and for granting consents. Respondent No. 7 is the authority that grants leases and renewals of leases for mining activities. Resp.No.8 is a statutory body which approves mining plans. Resp.No.9 grants conversion sanads under the Goa Land Revenue Code, 1968. Resp.No.10 is the statutory local authority of Colomba village. Respondent No. 11 is the owner of the mining lease TC No.6/49. Respondent No.12 is operating the lease on behalf of Resp.No.11.

6. The petitioners, by the present petition, seek an order for closure of the mining activities on the said lease and also for quashing of the approvals granted for mining activities by various authorities of the Central and State Governments. Petitioners allege that the development activity of mining has been initiated in violation of the orders of the Supreme Court, order of this Hon'ble Court and without the requisite NOCs under the Forest Conservation Act, 1980, the Mines and Minerals (Regulation and Development) Act 1957 and MCR Rules, 1960, the Town and Country Planning Act, 1974, the Goa Panchayat Act, 1993 and the Goa Land Revenue Code, 1968. The mining activity is taking place on lands that are zoned either as forest, orchard or agriculture in the statutory regional plan and some portions identified by Expert Committees as forest. The illegal and uncontrolled operations of the mine have degraded the river, water sources, forests, paddy fields and nullahs on which the villagers depend for their agriculture. The operation of the mine

further threatens the continued livelihood and environment of extremely simple people who have no other recourse for relief except approaching this Hon'ble Court since none of the authorities has considered their right to life prior to either grant of the lease or any of the subsequent approvals or the planned development of the village.

7. The petitioner No. 3 carried out a site visit of several mining leases including the impugned mining lease on 31st December, 2007. The report, which is hereto annexed to this petition as ***Annexure 1***, was sent by it to the Department of Mines, the Regional Controller of Mines, the Pollution Control Board and several other officials. Since no action has been taken thereafter, petitioner No.3 is also before this Hon'ble Court.

8. The mining lease (TC No.6/49) was issued to the Respondent No.11 by the former colonial Portuguese government in the year 1949. The mining lease is one of several mining concessions that were granted by the Portuguese in the village of Colomba. Not all the mining concessions that were granted were in fact actually operated. At any rate, the concessions were for manual operations only. Today, however, mining operations are all mechanized and thereby impact far more severely and rapidly on the environment and on the lives and livelihood of the local residents. If all the concessions/leases granted in Colomba are permitted to operate, mining activities would cover nearly 80% of

the village area and no village would be left. Annexed hereto as ***Annexure 2*** is a map which indicates the location of existing (approx. 23) concessions/leases within the village of Colomba.

9. Colomba village is an ordinary Goan village comprising paddy fields, forested hilly areas with water sources used for irrigation, nullahs and rivers, besides homes, schools, temples, cemetery, etc. The village inhabitants are largely cultivators most of whom are uneducated but who are experts in the cultivation of a wide variety of crops particularly rice. This is their only skill and if they are unable to cultivate their fields they would be put in the ranks of the destitute as that is their only means of survival. Hence this petition under Article 21 of the Constitution of India, as the rights of the tribals and cultivators were not considered when the authorities granted the concession in 1949. Nor were the rights of the tribals and other cultivators considered when the recent approvals were issued to the Respondents which include the environment clearance from the MoEF and the consent to establish/operate from the Goa Pollution Control Board.

10. Pursuant to the enactment of the Goa Daman and Diu Mining Concessions (Abolition & Declaration as Mining Leases) Act 1987, the mining lease No.6/49 was renewed by the State Government for a period of 10 years effective from 22.11.87 to 21.11.97. A lease deed was executed on 7.12.1990. Prior to expiry of the lease period in 1997, Respondent made another

application for renewal for a fresh period of ten years. The government, however, did not grant approval for the second installment. The lease expired on 21.11.2007. As of date, the Respondent No.11 does not have a valid lease and is mining illegally.

11. The mining lease includes Sy.Nos. 42-46, 54-59 and 67-70 of Colomba village, of which Sy.Nos.57, 68 and 69 are identified as private forest. Hence, even assuming that Respondent No.11 has a valid lease (which petitioners do not accept), it must be cleared from the forestry angle under the Forest Conservation Act, 1980, pursuant to the order of the Supreme Court and this Hon'ble Court. The mining lease does not have the mandatory forest clearance. Sy.No.57/1 which is a major portion of the land on the lease is shown as forest on Form III, copy of which is hereto annexed as ***Annexure 3***. The same survey number has also been included in the reports of the Sawant/Karapurkar Committees which list the areas having private forest. These Expert Committees were appointed by the Government of Goa to identify forest land in Goa in compliance with the Apex Court's directions in *Godavarman Thirumulkpad v/s UOI*. Similarly, Sy.No.68 which is also part of the lease is also declared as private forest by the same Committees.

12. Subsequently, in the year 2006, the Forest Department demarcated the actual extent of forest land on the lease and the

forest area. The petitioners are annexing the observations of the Forest Department and copies of the various cases lodged by the department against the Respondents 11 and 12. The petitioners concur with the observations of the department that if the activities are continued then there will be no forests left in the area. The various forest documents dealing with the destructive activities of the Respondents Nos.11 & 12 are annexed at ***Annexure 6 colly***.

15. When the Petitioner No. 3 visited the Forest Department at Margao on 11th February 2008 to enquire why the Forest Department was not taking a pro-active role to prevent the destruction of forests on the lease, he was informed that the Forest Department does not have power to close down mining activity on a lease but that the Forest Department had written to the Department of Mines on at least two occasions for closing the mine. The second letter dated 25.7.2007 is hereto annexed as ***Annexure 7***. Despite these communications from the forest department to their counterpart in the department of mines no action has been taken to halt the mining activities, close the lease and prevent further destruction of the forest.

16. The Forest Department had also restrained the Respondents 11 & 12 from using a road illegally constructed through the government forest adjoining the lease. However, the Respondent has illegally opened the road and is once again

using it without necessary permissions for transport of mining excavators, trucks and iron ore.

17. Pursuant to application from the Respondent No.11 to the Ministry of Environment and Forests (Resp. No. 2) for Environment Clearance for the mining project, public hearing for "expansion of production" to include iron ore was conducted by the State Pollution Control Board (Resp. No. 6) on 31.8.2005. The village people attended the hearing and objected to the mining activity in this area.

18. The matter was thereafter placed by the Ministry of Environment (Resp No. 2) before the EIA Expert Committee at its meeting held on 19-20 January 2007. It appears that neither the EIA Expert Committee nor the Ministry of Environment and Forests nor the State Pollution Control Board has shown concern about the existence of forest land on the lease and consequent violation of the Apex Court's orders as also this Hon'ble Court's directions when they have participated in and considered the grant of Environment Clearance to this mining lease without it having obtained prior permission under the Forest Conservation Act for diversion of the land to non-forestry use. It is also possible that the aforesaid authorities were not informed that there is an extensive forest on the lease, since Form I and XIV, hereto annexed as ***Annexure 8***, inexplicably records the land as "rice". At any rate none of the authorities took any measures to

find out the accuracy of the information supplied to them by the mining company, more particularly as it is well known that mineral ore is invariably located under forested slopes and rice is cultivated mainly in fields in the plains.

19. The minutes of the EIA Expert Committee specifically record that "no forest land is involved" on the lease which is factually incorrect information. The EIA Expert Committee recommended environment clearance without a site visit, without considering the rights of the villagers, including their right to livelihood. Cumulative impact of several mines on the village and the livelihood of its people was not considered, nor was carrying capacity. The record of public hearings was not considered and finds no mention in the minutes. Distance from wildlife sanctuary shown as 5 km is not verified by any forest official and is wrong. Copy of the extract of the minutes of the EIA Expert Committee's meeting of 19-20 January 2007 is hereto annexed as ***Annexure 9***.

20. The Ministry of Environment issued environment clearance on March 12, 2007. Copy of the environment clearance order dated 12.3.2007 is hereto annexed as ***Annexure 10***. The environment clearance also repeats the misinformation about the non-existence of forest on the lease. The environment clearance order records that "there is no forest on the site". This is an error of fact, based on wrong information. False facts have deliberately

been submitted by the Respondents 11 & 12 in order to circumvent the clearance required under FCA, 1980. *Prima facie* the order dated 12.3.2007 is wrong as it has been issued without facts being verified and therefore without regard to the order of this Hon'ble High Court. It needs to be quashed and set aside.

21. The environment clearance order also contains other incorrect facts. It states that the lease land is private land. However, substantial part of the land belongs to the comunidade. The clearance further records that "about 100000 million m3 has already been accumulated on the lease and 13,00 million m3 of solid waste will be generated in the mine life which will be 100% backfilled." These are absurd figures and are completely false, since there are no such huge dumps of waste and the Resp.No.11 himself had submitted in writing that he has been operating the mine manually till the time of application for consent of the Pollution Control Board.

22. Although the environment clearance details several measures to be adopted to safeguard the environment including 15 specific conditions and 18 general conditions, apparently these requirements are only on paper and none is being followed or enforced. The statutory Respondents do not monitor or are incapable of ensuring the implementation of the conditions either.

23. Petitioners state that the mining activity of the Respondents has not only resulted in large scale destruction of the forest, but the water sources as well. As result, paddy fields cannot be operated any longer. The environment clearance order talks of protection of ground water. However, the lease is on a hill which, together with the forest on it, is the source of several major springs that have hitherto supported the paddy cultivation in the fields below. These water sources, which the villagers have enjoyed from time immemorial, have already been disturbed and will be permanently destroyed altogether if the mining activity is allowed to continue or expand.

24. As a result of complaints from the petitioners Nos.1 & 2, the Agricultural Department has made a survey and prepared reports dated 12.4.2007 and 19.4.2007 which clearly indicate that the mine is already threatening the paddy fields of innocent villagers. Report of site inspection on 12.4.2007 notes "that the mining operation of the above mine is in operation. A gradual process of the runoff of the mine silt into the nalhas and the paddy fields have also been observed. Hence, with the passage of time the mine reject would be detrimental to the vast agricultural fields cultivated in the locality." On the same site inspection, a letter addressed to the District Magistrate by the ZAO clearly states: "...It is very obvious that the rejections of the mines opened at the site in Colomba village will erode and get deposited in the adjoining paddy fields, coconut groves, flowing

nalhas and other vegetations. The dust pollution due to the mining activities also affects the pollination of the different crops grown in surrounding areas. The continuous and exhaustive mining activities have not only disturbed the flora and fauna of the area but several plant species are on the verge of extinction. The opening of the mines is certainly going to devastate the entire natural watershed of this village. This in turn is going to affect the livelihood of 80-90 families who are totally dependent on the agricultural land below the mining plateau. Moreover this mountain is also used by the farmers for grazing their cattle." These reports are annexed to this petition as ***Annexure 11 colly***.

25. Because of these activities, the Gram Sabha of the Panchayat of Rivona-Colomba has recently adopted a resolution dated 14.12.2007 followed up by a more detailed resolution dated 3.2.2008 rejecting mining activities in the entire village as such activities conflict with the development plan which is squarely the responsibility of the Panchayat under the 73rd Constitution Amendment. Annexed hereto as ***Annexure 12*** is a copy of the said resolution dated 3.2.2008.

26. By its orders dated 21/02/2005, 11/03/2005 and 30/01/2006 in Writ Petition No.460/2004 (Goa Foundation v/s UOI), the Apex Court directed that closure of all units including mines in Goa which were operating in violation of environment laws. Annexed

as ***Annexure 13*** is a copy of the said orders of the Supreme Court. The mining company had earlier only been excavating manganese ore manually, that too sporadically. Its application for environment clearance was for expansion of production to include iron ore. Thus it was squarely covered by the orders of the apex court. However, despite the apex court's orders, the Respondent mining company commenced excavation of iron ore from the lease in September 2006 without environment clearance and without consent of the Pollution Control Board. Environment clearance was only issued on March 12, 2007. Thereafter it appears the PCB has issued consent to operate only in February 2008. However, Respondent No.12 has continued to mine illegally and brazenly even when it did not have any approvals.

27. Although the lease was granted to Resp.No.11 and permissions to mine have been granted to Resp. No. 11, the Respondent No.11 does not do any of the mining. Instead it is the Respondent No.12 who is operating the lease. This is a violation of section 37 of the MCR, 1960. No clearances have been given in the name of the Resp.No.12. A large number of mines in Goa are operating in violation of this rule by having other parties doing their mining for them. This is a serious violation of the mining norms.

Operation of lease by another party

28. The Respondent No.11 is duty bound to procure an NOC under the Town and Country Planning Act 1974, and a valid approval from the Panchayat, permitting mining activities on the said land. No such permission has been obtained. The land use for which the Sy.Nos are zoned does not permit industrial activity and is therefore non-conforming area.

29. As per the provisions of the Goa Land Revenue Code, the Respondents are duty bound to procure an order from the Collector permitting the conversion of land for the purpose of mining. No such permission has been obtained. Though the Form III entries show that Sy.No.57 is forest, Form I & XIV has been tampered with to indicate the exact same area as rice field.

30. Petitioners addressed notice dated 16.2 2008 to the Chief Secretary on the specific issue of violation of this Hon'ble Court's order dated 2.7.2003. Copy of the notice is hereto annexed to this petition as ***Annexure 14***.

31. Prior to this, Petitioners 1 and 2 and several other villagers have addressed several letters, complaints and memoranda to each of the authorities, some of which are listed below. Petitioners crave leave to rely on them if and when required in these proceedings. The letters are as follows:

a) Letters to several authorities dated 24.11.06 for illegal blasting on 15.11.06, 17.11.06, 20.11.06 and 23.11.06, with consequent damage to houses and fields.

b) Letter to Forest Department dated 11.2.07.

c) Complaint dated 30.2.2007 about construction of illegal weighbridge by Hiralal Khodidas.

d) Letter dated 20.3.07 to Chief Secretary.

e) Letter dated 23.3.07 to PI Quepem PS.

f) Letter to Minister of Mines dated 27.3.07

g) Letter dated 3.5.07 to Deputy Director of Panchayats.

h) Complaint dated 7.8.2007 to Panchayat of Colomba.

i) Letter to Director of Mines dated 10.8.07.

j) Memorandum from Gawda, Kunbi, Velip and Dhangar Federation dated 10.12.07.

k) Memorandum to SDM from Gawda, Kunbi, Velip and Dhangar Federation dated 8.1.08.

l) Letter to manager of Hiralal Khodidas mine dated 21.1.2008.

Petitioners crave leave to produce and rely upon these communications, if and when required in the proceedings.

32. Petitioners are therefore approaching this Hon'ble Court on the following grounds among others.

(i) The mining lease No.6/49 does not have clearance under the provisions of the FCA, 1980. No FCA clearance

(ii) The environment clearance and other approvals (including the consent to establish dated 11.11.2005 and consent to operate) are in violation of this Hon'ble Court's order dated 2.7.2003 in MCA No.350/2003 in Writ Petition No.286/2003. Hence they have been issued in contempt of the above order. Ministry of Environment & Forests is a party to writ petition No.286/2003.

(iii) The environment clearance and other approvals are in violation of the Hon'ble Apex Court's directions in Godavarman.

(iv) The continued operation of this mine will completely play havoc with the life and livelihood of the villagers of Colomba who have already been rendered incapable of watering half their paddy fields due to destruction of their primary water source by the mining Respondents. These acts completely violate the fundamental rights of the petitioners under Article 21 of the Constitution in so far as none of the authorities including the Ministry of Environment and Forests or its Expert Committees have considered the impact of mining activity on the village environment and the destruction of the peoples' livelihood as a consequence of their clearances and approvals. Nor have the Respondent Ministry or its Expert Committees visited the site prior to the grant of any

permission. The continued operation of the mining lease (with several others, most of them still to come) will demolish the world of the villagers in its entirety. The damage being done is irreversible and after the mining is completed the villagers will have neither the forest nor their water source or their paddy fields.

(v) The mining companies have already grossly tampered with and disturbed the water resources of the village. They must be restrained from further destroying these water sources and directed to restore the sources they have destroyed.

(vi) The Panchayat of Coloma has adopted a detailed resolution on 3.2.2008 under the Constitution 73rd Amendment clearly opposing the continued operation of the mine and other mines in the village. The mining operations do not have approval of the panchayat under section 68 of the Panchayat Raj Act, 1993. The panchayat has determined that the mining operation is in complete conflict with the development plan and very existence of the village.

(vii) At no time has any assessment been done of the impact of operation of all the mining leases once granted as concessions in Colomba village and their

cumulative or collective impact on the environment and livelihood of the Colomba village. This is vital before any further leases are allowed as together, the mining lease area would cover approx. 80% of this village.

(viii) At the present moment, using heavy machinery, not more than two dozen workers of the Respondent mining company have already put in danger the sustainable livelihood of more than 4,000 persons who have peaceably cultivated their field since decades. No company has a right to damage the productive resources of the village in this manner.

(ix) The mining lease does not have the necessary approval under the Town and Country Planning Act, 1974. The operation of the mining lease is on steep slopes above 80% gradient whereas the Planning Regulations do not permit any development on gradients beyond 25%. No change of use of land from orchard or forest or agriculture to industry or mining has been allowed by the Town and Country Planning Board under the provisions of the Town and Country Planning Act 1974.

Plan and in the Sy.Nos. identified as forest in the Sawant and Karapurkar Committee reports.

iv) Pending hearing and final disposal of this petition for an order restraining the Respondent Nos.11 & 12 from continuing with mining operations on the lease No.6/49 forthwith and to maintain status quo.

v) Ad interim relief in terms of prayer (iv) above.

vi) For costs of this petition;

vii) For any other reliefs this Hon'ble Court may be pleased to grant.

Panaji

Dated: 5.3.2008

Petitioner No.1

Petitioner No.2

Petitioner No.3

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

GOA BENCH, AT PANAJI.

WRIT PETITION NO. 136 of 2008

Rama Ladu Velip & ors. ..Petitioners

v/s

State of Goa and ors ..Respondents

AFFIDAVIT IN SUPPORT OF THE PETITION

I, Dr Claude Alvares, Indian national, age 59 years, resident of Parra, Bardez, Goa, authorised representative of the Petitioner No.3 abovenamed, solemnly state on oath as under

1. I have, together with two others, filed a writ petition in public interest for the reliefs sought therein.

2. I am filing this affidavit to verify that the contents of the aforesaid writ petition. I solemnly declare and say that what has been stated in paragraphs 1, 2, 3, 5, 7, 8(p), 9(p), 10(p), 11(p), 12(p), 14-17, 18(p), 19(p), 20(p), 24, 25, 30, 31, 35, and 36 are true to the best of my knowledge and what is stated in the remaining paragraphs, namely, 4, 6, 8(p), 9(p), 10(p),

11(p), 12(p), 13, 18(p), 19(p), 20(p), 21-23, 26-29, 32-34 and 37 are in the nature of legal submissions and/or inferences of facts, which I believe to be true.

3. I state that the annexures to this petition are true copies of the originals.

Solemnly affirmed at Panaji

this the ___ day of March 2008 Deponent

Annexure 1

Report of a site visit to 12 iron ore mines in south Goa (Quepem/Sanguem talukas)

On 31st December, 2007 a team comprising of the undersigned and concerned villagers from Quepem and Sanguem talukas visited several mines as many complaints had been received in respect of them. After we informed the Deputy Conservator of Forests (South), Mr Shetkar, RFO, Sanguem and Mr S.S. Phadte, RFO, Curdi, also joined the team.

We visited a total of 12 mines. The following report indicates that majority of the mines are violating the Forest Conservation Act, 1980. Several companies are operating without the required clearances in violation of the orders of the apex court.

This report is being submitted to the Forest Department, the Regional Controller of mines, the Goa Mines Department and the Pollution Control Board for immediate action. The report may be treated as a formal complaint from the Goa Foundation. If no action is taken by the respective authorities, the Foundation serves notice that it will inform the High Court of the state of affairs.

1) The first mine we visited bearing TC No. 1/51 (Deva Dongor) is run by one Mr. Shaikh Salim. On the Ministry of Environment website this mine is listed for Environment Clearance. Despite this, work was going on. When we entered the lease, the mine owner stopped the mining activities and promised not to engage in mining till he had the necessary clearances under the Forest Conservation Act and the Environment Protection Act. I contacted Mr. J.B. Bhingi, Director of Mines on the phone and explained the position and he informed me that he will be sending his officials immediately to the site. (Earlier I had already written to the Mining Department that the mine would open for operations at any time and since they do not have the necessary

clearances, the Mines Department should take necessary steps). However, as can be seen, the Mines Department is in collusion with the party since the mine was in full operation at the time of the visit. After we had left the site, we were informed that mining was resumed on the lease. It was stopped again, this time by the officers of the Mining Department. (As per information reaching the Goa Foundation, mining resumed on 1st January, 2008 with the full knowledge and support of the mining department.) Mining is being conducted in violation of the mining plan.

This kind of conduct is in absolute contempt of the Supreme Court's order in writ petition No.460/2004 and therefore the Goa Foundation has no recourse but to file contempt proceedings in the apex court.

2) Thereafter we visited the mine of Jairam G. Neogi (TC No. 59/51; Tembeche Dongor). The mine is operating at the point where 3 villages meet and the mining lease comprises Sy. No. 66 and 67 of Maina village, Sy. No. 168 of Revona village and Sy. No. 35 and 36 of Caurem. The manager produced Environment Clearance Certificate of October 2007 which clearly records that Forest Clearance is awaited. However, mining has started at the site without Forest Clearance and with full destruction of the trees on the lease. I spoke directly to Mr. Omkar Singh, CCF and explained the position to him and he issued the necessary instructions to the two RFOs (who were with the inspection team) that work will be halted at the site and all the equipment used in the operation would be seized by the government for violating FCA and the orders of the Supreme Court. Mining lease does not have FCA clearance for the government forest on site. However, the rest of the lease is private forest for which FCA clearance is also required. The mine manager, however, did not think so, till he was corrected by the officials from the Forest Department.

3) Thereafter we visited the mining lease of Vaikunt Kadnekar (TC No. 12/53; Bateagal). The lease is on Sy. No. 27/1 of Maina. The party claimed he had Environment Clearance; however, copy was not

available. There was forest on the lease and workers were found felling trees in the area. Since violation of the FCA and EPA, 1986, was involved, he was instructed to stop all work at the site by the Forest Officials and not to start any work till FCA and EC approval was obtained.

4) The 4th mine we visited apparently belongs to Anil Salgaoncar, MLA. There were no persons at the site and no workers except for two persons who had no details with them. The mining lease is also in Maina village. Since we could not locate the TC number, we were unable to trace whether the mine has forest and environment clearance. However extensive destruction of forest has already taken place. We were informed that the mine might resume operations on 1st January 2008.

5) The fifth mine we visited belonged to G.N. Agarwal (T.C. No.8/1952) also located at Maina village, Quepem. EC was granted to this project 22.12.2006. No forest clearance is available. Forest on private land within the lease has been destroyed. No clearance has been obtained.

6) We next visited the mining lease of Haider Kassim Khan (TC No. 10/51). The lease is in Caurem Pirla Panchayat, and no work was being carried out at the mine. We visited due to stay order by the Supreme Court dated 7/12/2007 in the matter of Temporary Working Permits. We noted that a huge area has been converted into a mining dump which is outside the lease area. The area was obviously forested as could be seen from the rest of the forest on the site. No FCA clearance was found for the diversion. Huge road through forest area has been created without approval under FCA, 1980. Project was granted EC on 15.2.2006. We were not able to establish whether the external dump is approved by the mining plan.

7) We visited TC No. 84/53 of Damodar Mangalji & Co. in Colomba village of Rivona Panchayat. This lease has not been in operation for

more than 10 years; despite this no rehab and reclamation work has been carried out. The most interesting part of this mining lease is the presence on it of a large number of prehistoric rock carvings on the River Kushavati bank. Boards announce this is a protected site. These rock carvings are more than 9000 years old and are a priceless heritage. They have been notified for protection by the Goa Government.

8) We visited the site of a proposed mining lease TC 80/59 (Careamol) belonging to Manganlal Jaisingh. The lease comprises of excellent agricultural farms. In fact, one of the farmers owning a farm on the lease has been declared the best horticulturist of the year by the Goa Agriculture Department in 2007. No mining has taken place on this lease. Public hearing has been conducted and the Environment Clearance was granted by the Ministry despite the fact that the lease is by the side of the Kushavati River on the basis of false information that the river is several kms away. The environment clearance in the meanwhile has been challenged before the National Environment Appellate Authority in Delhi. However the village people are determined not to allow any mining at the site or allow any destruction of their agricultural operations. The mine is located in Caurem-Pirla Village.

9) The team next visited the mining lease of Dempo (T.C. No.3/51) at Curpem at Vaddem Panchayat. No work was being carried out at the site as temporary working permit has been stayed by the Supreme Court on 7/12/2007.

10)We visited next the mines of Ms. G.F. Figueiredo (TC 65/51; Polo Dongor). Environment clearance was granted on 18.7.2007. Party informed us that no Forest Clearance was required as they were working on private land. As could be seen at the site, the mining lease contains good forest and the mining pit was obviously in the forest area for which no clearance has been obtained. It appears that some

permission has been given under the Trees Act, 1984, for felling of trees in the forest land. This is against government policy.

11) The second last mine we visited belongs to Hiralal Kodidas (TC No. 6/49; Gulcan Dongor). Environment clearance was granted on 12.3.2007; it indicates no forest is involved. However, there is a report of the Forest Department indicating that mining activities should be halted for violation of the Forest Conservation Act. Private forest in the area (Sy.No.57) has not only been identified by Sawant/Karapurkar Expert Committee, but also been demarcated on the ground. Party has used the forest area however for dumping in violation of the High Courts order dated 2.7.2003 in MCA No.350/2003 in WP No.286/2003. As per the records in Form III, the entire Sy No. of the plot is showing as forest. The continued operation of the mine is in violation of FCA.

12) The last visit was to the mining lease of Mazook Kadar (TC No. 18/56) at Colomba, Rivona Panchayat. Work has yet to start and the villagers are fiercely opposed to the mining project. The Rivona Panchayat has adopted a resolution of the Gram Sabha which has rejected permission for the mining operations on several grounds. It is doubtful if the mine could open under such circumstances even if it has environment clearance. The entire Sy. No. has degraded forest; however, there is no FCA clearance. The villagers were advised by the team to utilize the coming monsoons to reforest the entire area with the help of the Forest Department.

It is surprising to relate that in most of the leases visited, forest had been destroyed on the ground that it was private land. This could not have happened if the mining companies had filed the required application for conversion under the Land Revenue Code, which they have not done. If they had done so, the FD would have refused permission for conversion unless FCA clearance for the land in question had been obtained. Thus the High Court's order dated 21.11.2006 in writ petition No.334 of 2006 has been completely bypassed.

No NOC from Town Planning is available for any of the mines covered. Mining is being carried out in violation of the provisions of the Town and Country Planning Act, 1974.

(Dr Claude Alvares)
Director/Goa Foundation
January 1, 2008

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
GOA BENCH, AT PANAJI.

WRIT PETITION NO.286/2003.

1) Sandeep Azrenkar, r/o
Margao, Salcette , Goa.

2) Goa Foundation, a Society registered under
the Societies Registration Act, 1960, through its
Secretary, Dr. Claude Alvares, and
having its registered at Rm.7,
La Brag Chambers, above Mapusa Clinic,
Mapusa- Goa. .....Petitioners

V/s

1) State of Goa
through Chief Secretary,
Government of Goa,
Secretariat, Panaji-Goa.

2) The Chief Conservator of Forests,
Forest Department, Behind Old Goa,
Medical College Complex,
Campal, Panaji-Goa.

3) The Tree Officer,
North Goa, Department of Forests,
Ponda, Goa.

4) The Tree Officer,
South Goa, Department of
Forests, Margao, Goa.

5) The Collector,
North Goa Collectorate,
Panaji-Goa.

6) Mapusa Municipal Council,
Mapusa- Bardez, Goa.

7) Department of Electricity,
Government of Goa through its
Chief Engineer, Panaji-Goa.

8) The Secretary, Ministry of
Environment and Forests,
Paryavaran Bhavan, C.G.O. Complex,
Lodi Road, New Delhi-110 003.

9) Phyllis Faria, r/o
Morod, Mapusa, Bardez-Goa.
10) Lucindo Faria, r/o.
Morod, Mapusa, Bardez-Goa.

11) Wynoma Faria, r/o.
Morod, Mapusa, Bardez-Goa.

12) North Goa Planning & Development Authority
through its Member Secretary
having office at male,
panaji-Goa. .....Respondents

AFFIDAVIT

I, Shri J. L. Singh, of major age, r/o. Altinho, Panaji, Goa, the original Respondent No.2 in this Writ Petition, do hereby on solemn affirmation state and submit as follows: -

1) I am presently the Chief Conservator of Forests, Department of Forests, Government of Goa, with office at Panaji.

2) I say that on 12/6/2006 this Hon'ble Court, while considering the request of the Respondent No.2 for extension of time limit, directed the State Government of Goa to place on record the details of progress achieved till date in the work of demarcation of the non forest areas from forest areas based on Sawant / Karapurkar reports as per this Hon'ble Court's Order dated 2/07/2003.

3) I say that the details of progress achieved till date in the work of demarcating private forests in the State are as under:-

Sr. No	Taluka	Village	Survey No./Chalta No.	Whether Forest Identified. If Yes, the exact area of the identified forest.
1	2	3	4	5
1	North Goa Division Bardez	Tivim	366/1-A(p), 366/2(p), 366/3-A(p), 366/4,366/5,366/6,367/2(p),367/3(p),367/4(p).	36.00 ha.

			367/5(p),370/1(p), 370/2(p),370/3(p), 370/3-A(p), 399/1, 399/4, 399/5, 399/6(p), 399/7(p), 399/8(p),399/9,399/10, 401/1(p),401/2(p),401/3(p),401/4(p),401/5(p), 401/6(p),401/7(p),401/8(p),401/9, 402(p), 403/1, 404, 405, 408, 409/6, 410/1, 410/2 411/4, 411/5. 412/1(p), 413/1, 413/2, 413/3, 415/1(p), 415/1-A(p), 415/2, 415/3, 415/4 & 415/5	
		Acoi (Mapusa city)	a) P. T. sheet No.33 Chalta No.38-A, 38, 29-A(p), 29(p), 30(p), 31(p), 32, 33, 34, 34-A, 34-A2 & 35 b)P.T. Sheet No.14 Chalta No.16(p), 20(p), 21(p), 23(p), 25(p), 26(p), 27(p), 28(p), 29, 29-A, 30, 31, 76, 80, 80-A, 81, 81-A & 82	5.60 ha.
		Xelepem (Mapusa City)	P.T. Sheet No.47 (p), 48(p), 65(p), 66(p), 70(p) & 71(p)	12.61 ha.
		Marna	100(p), 101(p), 102(p), 103(p), 104(p), 105(p) & 106(p).	11.30 ha.
		Pilerne	17(p), 18(p), 19, 20(p), 21(p) & 23(p)	20.16 ha.
		Penha-de-Franca-I	69(p), 84(p), 85(p), 86(p), 89(p), 90(p), 91(p), 92(p), 93(p), 103(p) & 104(p).	25.37 ha.
		Penha-de-Franca-II	13(p), 14(p), 16(p), 17(p), 21(p), 29(p),33(p), 34(p), 35(p), 38(p), 39(p), 40(p), 45(p), 50(p), 51(p) & 52(p).	57.82 ha.
		Socoro	268(p), 278(p)	27.60 ha.

		Socorro	260(p), 261(p)	Appx. more than 5.00 ha.
		Salvador-do Mundo	237(p), 239(p), 266(p)	64.30 ha.
		Salvador-do-Mundo	239(p), 235(p), 233(p)	8.98 ha.
2	Sattari	Keri	93	20.60 ha.
		Keri	102, 18(p), 21(p), 22(p), 23, 24(p), 25,26(p), 29(p), 100(p), 101, 103(p), 105(p), 106(p), 107(p), 108(p), 109(p), 111(p), 112(p), 114(p), 115(p), 116(p), 117(p), 121(p), 122(p), 123(p),124,125(p),126(p), 132(p), 133(p), 134(p), 135(p), 136(p), 146(p), 147(p), 148(p), 149(p), 161(p), 162(p), 177(p), 202(p).	613.31 Ha.
3	South Goa Division Canacona	Poinguinim	2(p) & 41(p)	60.10 ha.
			258(p), 259(p), 260(p)	38.20 ha.
4	Sanguem	Undrona	17(p)	19.50 ha.
		Viliena	11(p) & 14(p)	15.00 ha.
		Colomba	46(p) & 48(p)	11.50 ha.
		Colomba	57(p), 68(p) & 71(p)	94.20 ha.
		Bhati	61(p) & 62(p)	4.36 ha.
		Bhati	28(p)	10.80 ha.
		Bhati	34(p), 35(p) & 34(p)	19.50 ha.
		Uguem	39(p)	101.57 ha.
		Uguem	82(p)	7.15 ha.
		Potrem	8(p), 9(p)	In progress
		Potrem	31,32,33 & 34(p)	14.70 ha.
		Cumbari	9(p) & 18(p)	30.10 ha.
		Codli	41(p)	5.40 ha
		Cormonem	11(p)	7.30 ha.
		Curdi	29(p)	in progress

६	Salcete	Verna	64(p), 65(p) & 88 (p)	in progress
		Raia	400(P) & 401(p)	6.80 ha.
		Loutulim	165(p), 166(p), 167(p), 168(p), 169(p), 190(p), 191(p) & 192(p).	11.50 ha.
• Total number of land holdings (Survey Nos.) identified by the Sawant /Karapurkar Committees – 628 • Number of land holdings (Survey Nos.) in which the demarcation of private forests is completed till date - 225 • Percentage of progress achieved - 35.82%.				

4) I say that the work in field is presently under progress excepting for the rainy days.

I say that the contents of the above Affidavit are based on the records available in the office of the Respondent No.2 to which I have access and I believe the same to be true and correct to the best of my knowledge.

DEPONENT

Place: Panaji-Goa.
Dated: 26/06/2006.

Identified by: _____

ANNEX. 5

41

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
GOA BENCH, AT PANAJI.

Misc. Civil Appl. No. 350 of 2003
in
WRIT PETITION NO. 286 of 2003

The Goa Foundation ..... Applicant

in

1) Sandeep Azrenkar, r/o
Margao, Salcette, Goa.

2) Goa Foundation, a registered
Society through its Secretary,
Dr Claude Alvares, and
having its registered at Rm.7,
La Brag Chambers, Above Mapusa Clinic,
Mapusa, Goa ..Petitioners

V/s.

1) State of Goa
through Chief Secretary
Government of Goa
Secretariat, Panaji-Goa

2) The Chief Conservator of Forests
Forest Department, Behind Old Goa
Medical College Complex,
Campal, Panaji-Goa

3) The Tree Officer,
North Goa, Department of
Forests, Ponda, Goa.

4) The Tree Officer,
South Goa, Department of
Forests, Margao, Goa.

5) The Collector
North Goa Collectorate,
Panaji-Goa.

6) Mapusa Municipal Council,
Mapusa, Bardez, Goa.

7) Department of Electricity,
Government of Goa through its
Chief Engineer, Panaji, Goa.

TURE AT BOMBAY PANAJI BENCH GOA

Adv. Gen o/h served
23/6/03

8) The Secretary, Ministry of
Environment and Forests,
Paryavaran Bhavan, C.G.O. Complex,
Lodi Road, New Delhi 110 003.

9) Phyllis Faria, r/o
Morod, Mapusa, Bardez, Goa.

10) Lucindo Faria, r/o
Morod, Mapusa, Bardez,Goa.

11) Wynoma Faria, r/o
Morod, Mapusa, Bardez, Goa. ..Respondents

(Spl.-H.C., A.S., C.D., 78-e)

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF BOMBAY AT GOA
APPELLATE SIDE
MISC. CIVIL APPLICATION NO.350/2003 in
WRIT PETITION NO.286/2003.

Office Note, Office Memoranda of Quorum, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders
	Mrs. Norma Alvares, Advocate for the petitioners. Mr. A.N.S. Nadkarni, Advocate General with Ms. S. Sabnis, Addl. Govt. Advocate for respondents No.1 to 5 and 7. Mr.S.D. Padiyar, Advocate for respondent No.6. Mr. M.S. Sonak, Advocate for respondents No.9 and 11. Mr. V. Menezes, Advocate for respondent No.10. CORAM : F.I. REBELLO & P.V. HARDAS, JJ. DATE : JULY 2, 2003. P.C.: The petitioners by the present Misc. Application, are seeking certain general directions, as it is the case of the petitioners that inspite of the two reports of the Sawant Committee and the Karapurkar Committee which are pending before the Apex Court,

permissions are continuously being given for development of the land, either by way of changing of zoning or otherwise. In the light of that, it would be appropriate, till such time as the issue is finally settled by the Apex Court, to give certain general directions in respect of further development as regards those plots which are identified as forest either by Sawant Committee or Karapurkar Committee reports.

In the light of that, the following directions :

(1) The respondents No.1 to 7 are directed not to grant any permission for further development or change of zoning until the Apex Court finally decides the issue based on the Sawant Committee and/or Karapurkar Committee Reports, in

so far as State of Goa is concerned.

(2) If a party obtains necessary permissions from the Ministry of Environment, respondent No.8 under the Forest Conservation Act, it will be open to such party to develop the land, provided it has other necessary permissions to carry out the development.

(3) The First Respondent if it has not already done, to demarcate the non-forest areas from the forest areas based on either Sawant Committee or Karapurkar Committee reports and submit the same to this Court within six months from today.

Ordinary copy of this order be made available to the Advocate for the petitioners, as well as to the Counsel for the the

respondents.

Misc. Civil Application stands disposed of accordingly.

Appeal
Applica
Offic

CERTIFIED COPY

Date on which copy applied for 2-7-03
Date on which application completed 2-7-03
Date given for taking delivery 8-7-03
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Postage — Rs. 8=00
Total cost — Rs. 8=00

ssm.

Assistant Registrar, 18.07.03
High Court of Bombay,
at Goa, Panaji (Goa)
Pin 403 001

1988
18/7/03

Annexure 6

JOINT INSPECTION REPORT OF FOREST DEPARTMENT AND COLOMBA VILLAGERS TO HIRALAL KHODIDAS MINING SITE

A joint inspection is carried out alongwith F.S. (S), R.F. Curdi, F.G. Colomba and the complainants i.e. Villagers of Colomba led by Shri Rama L. Velip to the area of complaint i.e., mining lease area of M/s. Hiralal Khodidas at Colomba. Managers of the mines also accompanied.

On inspection, it is noticed that mining company working for the above said lease holder is carrying out mining activities in a haphazard manner, dumping the rejects on vegetated area burying the trees and damaging the vegetation. Also lot of dumping has been done in the area identified and demarcated as private forests.

R.F.O. Kurdi has booked offence cases for very few trees but actually number of trees will be much more. If the mine is allowed to work like this, much of the tree cover will vanish in near future in the area.

Hence we may report the matter to the concerned authorities to stop the mining activities. Also to R.F.O. Curdi to take necessary action to carry out proper enquiry and to find out the correct number of trees destroyed, damaged and also to take precautionary measures to prevent the dumping of rejects in the forested areas.

I have also inspected the area during the tour of H.E. Governor of Goa and has observed lot of clearing in the area including fresh clearing & dumping of soil in private forest area. The RFO was instructed to immediately take action to book offence cases and to stop illegal acts and report compliance. Put up letter to RFO Curdi accordingly.

Meanwhile put up report to CEF's letter immediately.

date ?

F.O.R.No 8/KIO/1[illegible]
10/5/2007

Name the Hindu
① Sh. Digambar Rama Pasarkar of Colomba &
② Sh. Mohan Ravli Gaonkar of Cotmuxem.

DUPLICATE

To be sent to D.C.F.
(डि. फॉ. ऑफिसरास पाठवावयाचा)

दुसरी प्रत

RANGE FOREST OFFICER
KURPI, SANGUEM - GOA

First Offence Report

फॉरेस्ट गुन्हा — प्रथम रिपोर्ट

(Details to be filled by Round Officer)
(राउंड ऑफिसरनें लिहिण्याचा तपशील)

No. 03 नंबर
Date 09/05/2007 ता.

Beat Colomba बीट—
Round Kurdi राउंड—

Detail of offence Illegal Felling of 09 Nos. of trees in deciduous Private गुन्ह्याचा तपशील— Forest area in S.No. 74 Colomba Forest area comes under S.No. 71

Place of offence Colomba Forest Area गुन्हा घडला—

Action taken against the offender if arrested Two persons कैद्याची व्यवस्था काय केली— arrested and released on bail bond as per according the statements.

Details of material attached घुडेमाल पटकाविला— ① Firewood - 1.000m³ ② packets of 01 No ③ Phaudes - 01 No ④ Gamlas & 01 No (Big) Action taken 13 Nos ⑤ Hammers - 07 Nos (Small) व्यवस्था काय केली— Above confiscated materials seized.

Camp Colomba गुवलगाव
Date 09/05/2007 ता.

Signature, F.O. सही,

Date of registration 09/05/2007 दाखल तारीख—

Date of despatch 09/05/2007 रवाना तारीख—

Serial No. of offence case in Round राउंड गुन्हा अनुक्रम नंबर 04/06/RF/KO/2007-08

Signature, सही,
Round Forester, राउंड फॉरेस्टर,

Date of registration दाखल तारीख—

Divisional order No. डिव्हिजनल हुकूम नंबर

Signature, सही,
Divisional Forest Officer डिव्हिजनल फॉरेस्ट ऑफिसर

Govt. Ptg. Press, Panaji-Goa — 430/200 Bks. — 9/1982

Names of the offenders

1) Shri Simao Piedade Barreto of Colomba

2) Shri Ramchandra Shyamlal Rajbar of Colomba.

FOR. No. 7/RPO/Co/No.7-08/1215/2007

DUPLICATE

RANGE FOREST OFFICER
CURTORIM SANGUEM

To be sent to D. C. F.

(डि. फॉ. ऑफिसरास पाठवावयाचा) दुसरी प्रत

First Offence Report

फॉरेस्ट गुन्हा—प्रथम रिपोर्ट

No. 02 नंबर Date 09/05/2007 ता.

Beat बीट– Colomba Round राउंड– Kundi.

Detail of offence गुन्ह्याचा तपशील– Illegal Felling & uprooting 06.32 Nos. of trees by Reopes Dozer Machine.

Place of offence कोठें घडला– M/s Hirolal Khoslidas Mine, Colomba Village

Action taken against the offender if arrested कैद्याची व्यवस्था काय केली– Two persons were arrested and released on bail bond after recording the

Details of material attached मुद्देमाल अटकाविला– Statements. One reopes dozer machine (Caterpillar D8K), timber 0.756 m³ and

Action taken व्यवस्था काय केली– Seized - 5 Nos. of details were left Drawn panchanama, material seized & deposited with the mines manager.

Camp मुक्काम Colomba Date ता. 09/05/2007

Signature, सही,

(Details to be filled by Round Officer)
(राउंड ऑफिसरने लिहिण्याचा तपशील)

Date of registration दाखल तारीख– 09/05/2007

Date of despatch रवाना तारीख– 09/05/2007

Serial No. of offence case in Round राउंड गुन्हा अनुक्रम नंबर 03/OC/RF/KU/2007-08

Signature, सही,

Round Forester, राउंड फॉरेस्टर,

Date of registration दाखल तारीख–

Divisional order No. डिव्हिजनल हुकूम नंबर

Signature, सही,

Divisional Forest Officer डिव्हिजनल फॉरेस्ट ऑफिसर

Govt. Ptg. Press, Panaji-Goa — 430/200 Blks. — 9/1982

Documents provided to the [illegible]

This letter says Hirolal mine

FOR.NOS/RFO/Colomba/2007-
08/5/2007

DUPLICATE

दुसरी प्रत

To be sent to D. C. F.
(डि. फॉ. ऑफिसरास पाठवावयाचा)

First Offence Report

फॉरेस्ट गुन्हा—प्रथम रिपोर्ट

(Details to be filled by Round Officer)
(राउंड ऑफिसरने लिहिण्याचा तपशील)

No. 01 नंबर — Date 07/05/2007 ता.

Beat बीट— Colomba — Round राउंड— Kundi

Detail of offence गुन्ह्याचा तपशील— Dumping of mining rejects and sorting of manganese ore in open patches between two in identified Private Forest area in Sy. No. 71 of Colomba Village.

Place of offence कोठे घडला—

Action taken against the offender if arrested कैद्याची व्यवस्था काय केली— —

Details of material attached मुद्देमाल अटकाविला— —

Action taken व्यवस्था काय केली— Drawn Panchanama.

Camp मुक्काम Colomba. Date ता. 07/05/2007

Signature, सही, F.O.

Date of registration दाखल तारीख— 07/05/2007

Date of despatch रवाना तारीख— 07/05/2007

Serial No. of offence case in Round राउंड गुन्हा अनुक्रम नंबर 02/OC/RF/K0/2007

Signature, सही,

Round Forester, राउंड फॉरेस्टर.

Date of registration दाखल तारीख—

Divisional order No. डिव्हिजनल हुकूम नंबर

Signature, सही,

Divisional Forest Officer डिव्हिजनल फॉरेस्ट ऑफिसर

Govt. Ptg. Press, Panaji-Goa — 430/200 Bks. — 9/1982

Document provided under Right to Information Act

This letter says Rv forest Sy No 71.

ANNEX. 7 51

No. 5-9-S(4)-06-FD/2068
Office of the
Chief Conservator of Forests
Government of Goa
Gomantak Maratha Samaj.,
Dayanand Smriti ,
Panaji (Goa) 403 001.
Dated:26th July, 2007.

To
The Director of Mines,
Government of Goa/,
Udhoyg Bhavan,
Punjabi, Goa.

Sub: Illegal mining activities in the lease No.6/49 of Shri Hiralal Khodidas in Village Colamba of Sanguem Taluka.

Sir,

I am directed to inform you that, the lease holder of mining lease No.6/49 namely M/ Hiralal Kholidas has illegally felled number of trees from the private property bearing Sy.No.69 of Colamba Village of Sanguem Taluka and broke open mining pit.

The Forest Department has booked two offence cases for the offence committed under P.T.A. 1984 and further inquiry is in progress.

Since the lease holder is working in the private area, you are requested to take immediate action to stop the operation of said mining for violation of law.

An early action in the matter is solicited.

Encl: as above.

Yours faithfully,

(Santosh Kumar)
Dy.Conservator of Forests
Planning & Statistics.

Copy to the Dy.Conservator of Forests, South Goa Division, Margao w.r.t. his letter No.6/349/SGF/2007-08/80 dated 13.4.2007 for information.

The letter refers to Sy No 69

5-9-S(3)06-FD/TMB/STN

ANNEX 8 - 52

Name of the field malvalem — FORM No. I & XIV 77 — Village Colomb
शेताचें नांव — नमुना नं. १ व १४ — गांवाचें नांव

Survey Number सर्व्हे नंबर 57 — Sub. Div: Number हिस्सा नंबर 1 — Tenure सत्ताप्रकार — Khata No. खातें नंबर — Taluka Sangu तालुका

I Cultivable Area लागण क्षेत्र	Ha. Ars. हे. आर.	Name of the Occupant कबजेदाराचे नांव	Mutation No. फेरफार नं.	Name of the Tenant कुळाचे नांव
(a) Dry Crop.....जिरायत	5·78·50	1) Pandurang Narayan Prabhu gaonkar		
(b) Garden.....बागायत	5·82·00			
(c) Rice.....तरी	31·10·00	M/s sociedade de Fomento Industrial L·T·D· (49)		
(i) Khajan.....खाजण				
(ii) Ker.....केर				
(iii) Morad.....मोरड				
Total Cultivable Area एकूण लागण क्षेत्र	42·70·50			
II. Un-Cultivable.....नापिक				
Pot-Kharab.....पोट खराब				
(a) Class (a).....वर्ग (अ)	0·00·50			
(b) Class (b).....वर्ग (ब)	0·06·75			
Total Un-Cultivable एकूण नापिक जमीन	0·07·25			
Grand Total.....एकूण	42·77·75			
	Rs. P. रु. पै.			
Assessment आकार				
Foro फोर				
Predial प्रेदियाल				
Rent रेंट				

Other rights इतर हक्क
Name of the person hol
rights and nature of rig
इतर हक्क धारण करणाऱ्याचे
हक्काचा प्रकार
House occupai
Hi-salal compa

Year वर्ष	Name of Cultivator लागण करणाऱ्याचे नांव	Mode रीत	Season मौसम	DETAILS OF CROPPED AREA पिकाखालील क्षेत्राचा तपशील: Name of Crop पिकाचे नांव	Irrigated बागायत Ha. Ars. हे. आर.	Unirrigated जिरायत Ha. Ars. हे. आर.	Land not available for cultivation नापिक जमिन: Nature प्रकार	Area/क्षेत्र Ha. Ars. हे. आर.	Source of Irrigation सिंचनाचा प्रकार	R
1970-71				Copy applied on 16/1/2007 Copy ready on 16/1/2007 Copy delivered on 16/1/2007 Fee charged: Rs. 10/- (Ten Rupees) Receipt No. 1423 Dated: 16/1/2007 CERTIFIED TRUE COPY						
1971-72										

SANGUEM-GOA

Annexure 9

SUMMARY RECORD OF THE 5TH MEETING OF EXPERT APPRAISAL COMMITTEE (EAC) ON ENVIRONMENT IMIPACT ASSESSMENT OF MINING PROJECTS HELD ON 19-20TH JANUARY 2007.

Gogoru Ou Gulcan Dongar Iron and Manganese Ore mine project of M/s. Hiralal Khadidus, in district South Goa, Goa.

The proponent gave a presentation on the project. Proposal is for expansion in production for 2000 TPA of Manganese ore & 4 lakh TPA of iron ore and for renewal of mining lease and modernization. The total mine lease area of the project is 70.1870 ha. of which 69.7270 ha. is wasteland & 0.4600 ha. of surface water body. No forestland is involved. Area proposed for mining is 22.00 ha. 15.00., for OB dumps, 1.00 ha. for roads, 0.4600 ha. for Nallah & 31.7270 ha. for un-utilized area. The total water requirement is 146 m3/day. Working is opencast by mechanized method. Present working depth is 104m. above MSL for manganese and 95m. above MSL for iron ore & Ultimate working depth will be 21m. (bgl) (83m. MSL) for manganese & 56 (bgl) (39m. MSL) for iron ore. Ground water table is 75.5 m above MSL (6.53 bgl). Life of the mine is 8 years. About 50,000 m3/month of waste will be generated which will be backfilled after exploitation of mineral. Netravali Sanctuary is located at a distance of 5.0km in the buffer zone. Hydro geological report is given in EIA report.

Based on the presentation and discussion held, the Committee recommended the project for environmental clearance subject to following specific conditions:-

1. OB dump shall be stabilized with vegetation.
2. Conservation plan for wild fauna shall be prepared in consultation with CWLW for implementation.

No forest land
Life of mine – 8 years
Wasteland

Annexure 10

J-11015/180/2006-IA. II(M)
Government of India
Ministry of Environment & Forests.

Tel No. 24363973
E-mail: plahujarai@yahoo.com
Paryavaran Bhavan, C.G.O. Complex,
Lodi Road, New Delhi – 110 003
Dated the March 12, 2007

To
M/s. Shri Hiralal Khodidas
Near Savordekar Petrol Pump
Curchorem
District South Goa.
Goa 403 706.

Sub: Gogoro Ou Gulcan Dongor Mine of M/s. Shri Hiralal Khodidas at village Colomba, Tehsil Sanguem in district South Goa in Goa – environmental clearance reg.

Sir,

This has reference to your letter No. nil dated 5th June, 2006 received in the Ministry on 13th June, 2006 and subsequent letter dated 14th & 18.12.2006 on the subject mentioned above. The Ministry of Environment and Forests has examined the application.

2. It has been noted that the proposal is for environmental clearance for expansion project and renewal of mining lease. It is proposed to produce 2000 TPA of Manganese ore & 4 lakh TPA of iron ore. Total mine lease area of the project is 70.1870 ha. which is private land. No forestland is involved. Area proposed for mining is 22.00 ha. 15.00 Ha for OB dumps, 1.00 ha for roads, 0.4600 ha for Nallah & 31.7270 ha for un-utilized area. Elevation of the mine is 57-124m above msl. Topography of the area is hilly and undulated. Life of the mine is 8 years. Netravali wildlife Sanctuary is located at a distance of 5 km from the periphery of the core zone. No ecologically sensitive area such as National Part/Sanctuary/Biosphere reserve etc is located within core and buffer zone of the mine lease. There is no population in the core zone, displacement of population and R & R is not involved. Total water requirement is 146 m3/day, which will be met from the pit water (141m3/d) and ground water source (5m3/d). Present working depth of mine is 104 m above MSL for manganese and 95m above MSL for iron ore. Ultimate working depth will be 21m (bgl) (83m MSL) for manganese & 56m (bgl) water table will not be intersected. About 50,000 m3/month of solid waste will be generated which will be backfilled after exploitation of mineral. About 100000 million m3 has already been accumulated and 13,00 million m3 of solid waste will be generated in the mine life which will be 100% backfilled. Waste dump shall be afforested with local plant species. It is noted that Public hearing f the project was held on 31.8.2005.

If forestland the EC would have said about FC clearance

IBM has approved the mining plan on 12.12.2002. IBM has approved the progressive mine closure plan on 29.6.2005. Capital cost of the project is Rs. 250.0 lakhs.

3. The project was considered as per the old EIA Notification, 1994 as per Sub-Para 2.1.1. of the Interim Operational Guidelines dated 13th October, 2006 issued by the Ministry of Environment and Forests under Para 12 of the EIA Notification, 2006.

4. Based on the information submitted by you, the Ministry of Environment and hereby accords environmental clearance for the above project under the provisions of the EIA Notification dated 14th September, 2006 subject to implementation of the following conditions/safeguards.

A. Specific conditions

(i) Top soil shall be stacked properly with proper slope with adequate safeguards and shall be used for reclamation and rehabilitation of mined out areas.

(ii) Over burden shall be stacked at earmarked dump site(s) only and shall not be kept active for long period. The maximum height of the dump shall not exceed 30 m, each stage shall preferably be of 10 m and over all slope of the dump shall not exceed 28°. The OB dump shall be backfilled. In critical areas, use of geo textiles shall be undertaken for stabilization of the dump. The OB dumps shall be scientifically vegetated with suitable native species to prevent erosion and surface run off. Monitoring and management of rehabilitated areas shall continue until the vegetation becomes self-sustaining. Compliance status shall be submitted to the Ministry of Environment & Forests on six monthly basis.

(iii) Catch drains and siltation ponds of appropriate size shall be constructed to arrest silt and sediment flows from soil, OB and mineral dumps. The water so collected shall be utilized for watering the mine area, roads, green belt development etc. The drains shall be regularly desilted particularly after monsoon and maintained properly.

Garland drain (size, gradient and length) shall be constructed for both mine pit and for waste dump and sump capacity shall be designed keeping 50% safety margin over and above peak sudden rainfall (based on 50 years data) and maximum discharge in the area adjoining the mine site. Sump capacity shall also provide adequate retention period to allow proper settling of silt material. Sedimentation pits shall be constructed at the corners of the garland drains and desilted at regular intervals.

(iv) Dimension of the retaining wall at the toe of dumps and OB benches within the mine to check run-off and siltation shall be based on the rain fall data.

(v) Drilling and blasting shall be by using dust extractors/wet drilling.

(vi) Plantation shall be raised in an area of 64,477 ha along the mine, haul roads and settling pond including a green belt of adequate width by planting the native species around the LM

area, roads, OB dump sites etc. in consultation with the local DFO / Agriculture Department. The density of the trees shall be around 2500 plants per ha.

(vii) Conservation plan for wild fauna shall be prepared in consultation with CWLW for implementation.

(viii) The project authority shall implement suitable conservation measures to augment ground water resources in the area in consultation with the Regional Director, Central Ground Water Board.

(ix) Regular monitoring of ground water level and quality shall be carried out by establishing a network of existing wells and constructing new piezometers during the mining operation. The monitoring shall be carried out four times in a year – pre-monsoon (April-May), monsoon (August), post-monsoon (November) and winter (January) and the data thus collected may be sent regularly to MOEF, Central Ground Water Authority and Regional Director Central Ground Water Board.

(x) Prior permission from the competent authority shall be obtained for drawl of ground water, if any.

(xi) Vehicular emissions shall be kept under control and regularly monitored. Measures shall be taken for maintenance of vehicles used in mining operations and in transportation of mineral. The vehicles shall be covered with a tarpaulin and shall not be overloaded.

(xii) Consent to operate shall be obtained from SPCB for the enhanced production from the mine.

(xiii) Sewage treatment plant shall be installed for the colony. ETP shall also be provided for workshop and wastewater generated from mining operations.

(xiv) The voids created at the end of mining shall be converted into water body with shallow depths not exceeding 30 m. The higher benches of the excavated void/mine pit shall be terraced and plantation done to stabilize the slopes. Peripheral fencing shall be done along the excavated area.

(xv) A Final Mine Closure Plan, along with details of Corpus Fund, shall be submitted to the Ministry of Environment & Forests 5 years in advance of final mine closure for approval.

B. General conditions

i. No Change in mining technology and scope of working shall be made without prior approval of the Ministry of Environment & Forests.

ii. No change in the calendar plan including excavation, quantum of mineral iron and manganese ore and waste shall be made.

iii. Conservation measures for protection of flora and fauna in the core & buffer zone shall be drawn up in consultation with the local forest and wildlife department.

iv. Four ambient air quality-monitoring stations shall be established in the core zone as well as in the buffer zone for RPM, SPM, SO2, NOx monitoring. Location of the stations should be decided based on the meteorological data, topographical features and environmentally and ecologically sensitive targets and frequency of monitoring should be undertaken in consultation with the State Pollution Control Board.

v. Data on ambient air quality (RPM, SPM, SO_2 NOx) should be regularly submitted to the Ministry including its Regional office located at Bangalore and the State Pollution Control Board / Central Pollution Control Board once in six months.

vi. Fugitive dust emissions from all the sources shall be controlled regularly. Water spraying arrangement on haul roads, loading and unloading and at transfer points shall be provided and properly maintained.

vii. Measures shall be taken for control of noise levels below 85 dBA in the work environment. Workers engaged in operations of HEMM, etc. shall be provided with ear plugs / muffs.

viii. Industrial waste water (workshop and waste water from the mine) should be properly collected, treated so as to conform to the standards prescribed under GSR 422 (E) dated 19th May, 1993 and 31st December, 1993 or as amended from time to time. Oil and grease trap shall be installed before discharge of workshop effluents.

ix. Personnel working in dusty areas shall wear protective respiratory devices and they shall also be provided with adequate training and information on safety and health aspects.

x. Occupational health surveillance program of the workers shall be undertaken periodically to observe any contractions due to exposure to dust and take corrective measures, if needed.

xi. A separate environmental management cell with suitable qualified personnel shall be set-up under the control of a Senior Executive, who will report directly to the Head of the Organization.

xii. The project authorities shall inform to the Regional Office located at Bangalore regarding date of financial closures and final approval of the project by the concerned authorities and the date of start of land development work.

xiii. The funds earmarked for environmental protection measure shall be kept in separate account and should not be diverted for other purpose. Year wise

expenditure shall be reported to the Ministry and its Regional Office located at Bangalore.

xiv. The project authorities shall inform to the Regional Office located at Bangalore regarding date of financial closures and final approval of the project by the concerned authorities and the date of start of land development work.

xv. The Regional Office of this Ministry located at Bangalore shall monitor compliance of the stipulated conditions. The project authorities should extend full cooperation to the officer(s) of the Regional Office by furnishing the requisite data / information / monitoring reports.

xvi. A copy of clearance letter will be marked to concerned Panchayat / local Ngo, if any, from whom suggestion / representation has been received while processing the proposal.

xvii. State Pollution Control Board should display a copy of the clearance letter at the Regional Office, District Industry Centre and Collector's office / Tehsildar's Office for 30 days.

xviii. The project authorities should advertise at least in two local newspapers widely circulated, one of which shall be in the vernacular language of the locality concerned, within 7 days of the issue of the clearance letter informing that the project has been accorded environmental clearance and a copy of the clearance letter is available with the State Pollution Control Board and also at web site of the Ministry of Environment and Forests at http://envfor.nic.in and a copy of the same shall be forwarded to the Regional Office of this Ministry located Bangalore.

5. The Ministry or any other competent authority may alter/modify the above conditions or stipulate any further condition in the interest of environment protection.

6. Failure to comply with any of the conditions mentioned above may result in withdrawal of this clearance and attract action under the provisions of Environment (Protection) Act, 1986.

7. The above conditions will be enforced inter-alia, under the provisio9ns of the Water (Prevention & Control of Pollution) Act, 1974, the Air (Prevention & Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986 and the Public Liability Insurance Act, 1991 along with their amendments and rules.

Yours faithfully

(Dr. P.L.Ahujarai)
Director.

Copy to:

1. Secretary, Ministry of Mines, Government of India Shastri Bhawan, New Delhi.
2. Secretary, Department of Environment, Government of Goa, Panji.
3. Secretary, Department of Mines and Geology, Government of Goa, Panji.
4. Secretary, Department of Forests, Government of Goa, Panji.
5. Chief Wildlife Warden, Government of Goa, Panji, Goa.
6. Chief Conservator of Forests, Regional Office (SZ), Kendriya Sadan, 4th Floor E&F, Wings 17th Main Road, 1 Block, Koranmangala, Bangalore – 560 034.
7. Chairman, Central Pollution Control Board, CBD-Cum-Office Complex, East Arjun Nagar, New Delhi – 110 032.
8. Chairman, Goa State Pollution Control Board, House No. 234, Patto, Panaji, Goa – 403 001.
9. Member Secretary, Central Ground Water Authority, A2, W3 Curzon Road Barracks, K.G. Marg, New Delhi – 110 001.
10. Controller General, Indian Bureau of Mines, Indira Bhavan, Civil Lines, Nagpur – 440 001.
11. District Collector, South Goa District, Goa.
12. EI Division, Ministry of Environment & Forests, EI Division, New Delhi.
13. Monitoring File.
14. Guard File.
15. Record File.

(Dr. P.L. Ahujarai)
Director.

Annexure II

No. 3/17/1/07-08/ZAOS/59
Zonal Agricultural Office,
Sanguem – Goa.
Date: 19/4/07

To,
The District Magistrate
South Goa District
Margao.

Sub: Report on destruction of infrastructure
Ref: Your office letter No. 39/1/2007/Mag-Msic/662 dtd. 29/3/07

Sir,

The site inspection was conducted on 12/04/07 along with the farmer's representative Shri Rama Velip and other residents from Colomba-Rivona, Sanguem and the Mines Managers. The area of the mine Gorgoro on Gulcan Dongor Mine T.C. No. 006/49 of Hiralal Khodidas in Colomba was observed to be 70-80 ha. approx. There are two mines covering 70-80 Ha of the above plateau. The slope on all four sides of the above plateau is around 60-70 degrees and at some places it is even 80-85 degrees.

There are in all two mining pits in operation. It was revealed from mines Manager that one mine is of manganese and the other of iron ore. The whole plateau is having a cover of forest trees as well as cashew trees.

One Nallah, originates from the Eastern side of the plateau and it travels from East to North and then meets another Nallah on the North side forming a big perennial Nallah which then travels to the Western and Northern side of the plateau and finally meets the Kushawati River at Kevona.

There are about 5 Bandharas on the perennial Nallah at different places, which irrigates various crops such as arecanut, banana, coconut, paddy, sugarcane, etc of about 80-90 farmers who are cultivating the same for past so many decades.

The total cultivated area would be around 200 ha. under various crops. There are also some open wells by the sides of the above-mentioned perennial Nallah from which the farmers obtain water for irrigation.

80-90 farmers
Cultivated area 200 ha
Perennial Nallah
Stone bunders - useless
Five 1 farm - extinct
Watershed - devastat

The stone barriers built by the Mine authorities around the plateau to prevent the silt from eroding into the paddy fields, will not serve the purpose in the very high rainfall area of Goa.

On the observations during the site inspection, it is very obvious that the rejections of the mines opened at the site in Colomba village will erode and get deposited in the adjoining paddy fields, coconut grooves, flowing Nallahs and other vegetations.

The dust pollution due to the mining activities also affects the pollination of the different crops grown in surrounding areas. The continuous and exhaustive mining activities have not only disturbed the flora and fauna of the area but several plant species are on the verge of extinction. The opening of the mines is certainly going to devastate the entire natural watershed of this village. This in turn is going to affect the livelihood of 80-90 families who are totally dependent on the agricultural land below the mining plateau. Moreover this mountain is also used by the farmers for grazing their cattle.

(B.S. Prabhu)
Zonal Agriculture Office
Sanguem-Goa.

Copy submitted to:

1) The Deputy Collector, Quepem – Goa
2) The Director of Agriculture, Panaji-Goa.

Annexure

Zonal Agricultural Office, Sanguem.

INSPECTION REPORT

Sub: Damage due to runoff from Mining site.
Ref: No. DYC/QPM/MAG/55/2007/2444, dt. 30/07/07.

In view of the above letter, this office conducted the site inspection & the repot is as detailed below:

(1) **Mine of Zoiram Bhikaji Neugi in Quinamol (Colomba) village. TC Nos 006/50, 20/50, 3/52.**
The site inspection of the above mine was conducted by the office on 26/04/07 and the report has already been submitted to the District Magistrate, South Goa District, Margao-Goa vide letter No. 3/17/1/07-08/ZAOS/75 dt. 27/04/07. (Copy enclosed). It is learnt from the applicants & also on inspection it is revealed that the mining activity of the above referred mine is presently stopped and the runoff of the silt is not observed at the time of inspection.

(2) **Mine of Hiralal Khodidas Gogoro 00 Gulean Dongor Vline TC No. 006/49.**
The site inspection of the above mine was conducted on 12/4/2007 along with the farmers and the report to the effect has been submitted to the District Magistrate South-Goa district, Margao Vide letter No. 3/17/1/07-08/ZAOS/59, dt. 19/4/07 (Copy enclosed). It has been observed that the mining operation of the above mine is in operation. A gradual process of the runoff of the mine silt into the Nalhas and the paddy fields have also been observed. Hence, with the passage of the time the mine reject would be detrimental to the vast agricultural fields cultivated in the locality.

(3) **Mine of Badruddin, Mavani at Muscaurem TC. No. 14/52**
The site inspection of the mine was thoroughly carried out. It was observed that the site of the mine is very close to the Kushavati River. The mining distance from the old mining reject and the river would be approx. 60 mts. at some locations. The plantations of various species of forest plants have stabilized the reject and a trench of 1-2 mts. has been dug around with barriers for controlling

Paddy fields.

the flow of water. The mine washing plant was not open in operation at the time of inspection on 9/8/2007

Inspected by:

(Shivdas Gaonkar)
Assistant Agricultural Officer
Sanguem Goa.

Yours faithfully

(B.S. Prabhu)
Zonal Agriculture Officer.
Sanguem Goa.

Annexure 12

RESOLUTION OF GRAM SABHA OF RIVONA-COLOMBA VILLAGE ADOPTED ON 3.2.2008

Stopping of mining activities in survey no. 57/1, 58/1 and 56/1 of Colomba village belonging to m/s. Hiralal Kodidas

RESOLUTION

Shri Ram Velip has discussed his application by stating that the mining activity is a short-term non-sustainable economy. Whereas the economic development carried out by this community over the past several decades has been sustainable not just in the past and in the present but also will be sustainable for many decades in the future.

That the mining activity contemplated will create environmental degradation, destroy the hill cover, the streams, the ground water and other community assets and affect the water resources of the village and lead to the decline of agriculture and that this would be completely contrary to interests of the villagers.

That the operation of these leases will therefore be contrary to the planned development of this village and its constitutional mandate if it allowed the destruction of the village and the livelihood of the people only so that a few can benefit monetarily.

This Gram Sabha therefore further resolved not to permit the operation of any mining activity within the jurisdiction of this village consisting the following wards: Rivona Colomba, Kevona Sivsoran Kerim and Muscavrem. It directs the Panchayat by this resolution not to entertain any permission under the Panchayat Act 1994 for any mining activity or operation of mining lease so as to ensure and project the sustainable development of this community in perpetuity and hence the resolution has passed unanimously.

It has been resolved that the present mine located at Gulcon Dongor of M/s. Hiralal Kodidas in survey No. 57/1, 58/1 and 56/1 mining lease No. 06/49 is polluting paddy field, nearby stream of locality and hence the mine owners has brought big plant for their mining activity including mobile dry screening plant should be stopped immediately. The resolution has passed unanimously.

ANNEX. 13 (65)

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Writ Petition (Civil) No.460/2004

Goa Foundation ...Petitioner(s)

Versus

Union of India ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE Y.K. SABHARWAL
HON'BLE MR. JUSTICE P.B. NAOLEKAR

ORDER dated 21/02/2005

Pursuant to the Order dated 17.12.2004 an affidavit of R. Chandramohan, Joint Secretary, Ministry of Environment and Forests, Government of India, has been filed though belatedly on 10.2.2005. The affidavit, though purports to be in compliance with the Order dated 17.12.2004, but in letter and spirit it is far from complying that order. It is more in the nature of completing the formality. The queries raised in the said Order have still not been answered fully. Alongwith the affidavit only copies of some of the letters i.e. dated 13.1.2005, 4.2.2005 and 7.2.2005 have been annexed. The Government of India is not powerless to ensure compliance with the environmental laws in particular Environment Protection Act, 1986. In these circumstances, we direct Government of India to issue requisite order within a period of 10 days directing closure of defaulting units continuing to operate in violation of environmental laws. The State Governments are directed to comply the statutory directions issued by the Government of India. The respondent-Government of India is directed to file a compliance report within six weeks giving details of units may be closed as a result of this Order.

List after six weeks.

(Vijay Kumar Sharma)
AR cum PS to Hon.Judge

(V.P. Tyagi)
Court Master

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

I.A. Nos. 3-13 in Writ Petition (Civil) No.460 of 2004

Goa Foundation ...Petitioner(s)

Versus

Union of India ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE Y.K. SABHARWAL
HON'BLE MR. JUSTICE S.B. SINHA
HON'BLE MR. JUSTICE P.B. NAOLEKAR

ORDER dated 11/03/2005

By order dated 21st February, 2005, considering the affidavit that had been filed by the Joint Secretary, Ministry of Environment and Forests, Government of India, this Court directed the Government to issue requisite order within a period of ten days directing closure of defaulting units continuing to operate in violation of environmental laws. The State Governments were also directed to comply with the statutory directions issued by the Government of India. We are told that pursuant to that order the Government of India has issued an order dated 2nd March, 2005 under Section 5 of the Environment (Protection) Act, 1986.

Now, these applications have been filed by the applicants who have been directed to close down, pursuant to the order dated 2nd March, 2005. The order dated 2nd March, 2005 directs the State Governments and Union Territory Administrations to immediately close down all defaulting units operating in violation of environmental laws. The list of units operating in violation of notification dated 27th January, 1994, as compiled by the Central Government, has been enclosed along with the order dated 2nd March, 2005. The applicants are some of those who are mentioned in that list.

According to the applicants, their applications for grant of environment clearance under the 1994 notification are pending with the State Pollution Control Boards/MoEF. Mr.Sharan, learned Additional Solicitor General, appearing for the MoEF, states that with the Ministry of Environment and Forests only 44 completed applications are pending. At the present, however, learned A.S.G. is unable to state as to which of the applicants' applications fall in that category of 44 applications which are pending.

In view of the aforesaid, we direct the MoEF to file its response to the applications filed by the aggrieved units apprehending their closure pursuant to the order dated 2nd March, 2005. The petitioner may also file its reply to those applications. The said replies be filed within three weeks. Rejoinder affidavits may be filed within two weeks thereafter.

Meanwhile, we direct that pursuant to the order dated 2nd March, 2005, the applicants' units shall not be closed.

Submissions have been made by various learned counsel appearing for those units whose applications could not be registered, though filed, on account of paucity of time. Three such applications are by Metro Labs, Metro Drugs and Cirex Pharmaceuticals. Mr.K.K. Venugopal, learned senior counsel, submits that some applications could not even be mentioned in view of the ongoing arguments before the seven-Judge Constitution Bench.

Having regard to the totality of the circumstances and this background, we stay the operation of the order dated 2nd March, 2005 till next date of hearing.

The pendency of these applications in this Court would not prevent the MoEF/ State Pollution Control Boards to process the applications and decide them as per rules and regulations.

List the matter after five weeks. Meanwhile, pleadings in all the applications shall be completed.

(N. Annapurna)
Court Master

(V.P. Tyagi)
Court Master

ITEM NO.46 COURT NO.1 SECTION PIL

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(s). 460 OF 2004

GOA FOUNDATION
Petitioner(s)

VERSUS

UNION OF INDIA
Respondent(s)

(With appln(s) for stay and c/delay in filing affidavit and directions and intervention and impleadment and modification and ad-interim direction/clarification and seeking permission to bring additional document on record and office report)

WITH W.P(C) NO. 91 of 2005

(With appln. for interim directions and office report)

Date: 30/01/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.K. THAKKER
HON'BLE MR. JUSTICE R.V. RAVEENDRAN

For Petitioner(s) Mr. Raj Panjwani, Adv.
Ms. Purnima Bhat,Adv.
Dr. A. Francis Julian, Adv.
Mr. Sumit Kumar, Adv.
M/S Arputham,Aruna & Co.

UPON hearing counsel the Court made the following

O R D E R

Our attention has been drawn by Mr.Panjwani, learned counsel appearing for the petitioner, inter alia, to a communication dated 5th February, 2002 sent to Chief Wildlife Warden, Government of Goa by Addl. D.G.F. (Wild Life) of Ministry of Environment and Forests (MoEF) which sets out the decision taken in a meeting of the Indian Board for Wildlife under the chairmanship of Hon'ble Prime Minister of India on 21st January, 2002 where a decision was taken to notify the areas within 10 kms. of the boundaries of national parks and sanctuaries and the wildlife corridors as eco-sensitive areas. A request was made in that letter for listing out such areas and furnishing detailed proposals for notification as eco-sensitive areas under the Environment Protection Act. Learned counsel, drawing our attention to an order dated 14th July, 2003 passed in Writ Petition (C) No.343 of 2002 by the High Court of Bombay, contends that all that information was supplied. Our attention has also been drawn to EIA clearance being granted by the MoEF in areas in close proximity to wildlife sanctuaries. The MoEF is directed to file an affidavit, within three weeks, placing on record their stand in respect of the decision taken in the meeting of 21st January, 2002 and on the issue of grant of clearances for mining in areas in close proximity of the sanctuaries and the policy, if any, as to the distance of the area from the boundaries of the sanctuaries for the purpose of considering the application for grant of mining lease.

Our attention has also been drawn to a list, Annexure R-11, filed along with the affidavit of the State of Goa, particularly, part-II thereof which lists 75 mine lessees who, it is claimed, had not even applied for grant of mining lease within the time stipulated under notification dated 27th January, 1994 as extended by the Ministry from time to time. The submission of Mr.Panjwani is that this fact should have been brought to the notice of this Court when the order dated 11th May, 2005 was passed and that the order dated 11th March, 2005 directing the closure of the mines of those who have no permission should be applicable to those who did not even apply within the stipulated time. The MoEF shall examine this issue too and place its stand on record by filing an affidavit within three weeks.

List after four weeks.

All the applications for impleadment/intervention shall also be listed on that day.

(N. Annapurna)
Court Master

(V.P. Tyagi)
Court Master

ANNEX. 14

70

The Goa Foundation

G-8, St Britto's Apartments
Feira Alta, Mapusa 403507 Goa
Phones: 0832-2263305; 2256479
www.goacom.org/goafoundation
email: goafoundation@gmail.com
16th February, 2008

To,
Mr. J.P. Singh,
Chief Secretary and Secretary for Home,
Government of Goa,
Panaji – Goa.

Subj: *Violation of High Court orders by Hiralal Khodidas mining activities*

Dear Mr. Singh,

On January 11, 2008, I visited the mining site of Hiralal Khodidas (TC No.06/49) where mining operations have commenced. The lease is located in Colomba village of Sanguem taluka.

Survey No. 57/1 on which the lease is presently operating has been identified as private forest by the Sawant/Karapurkar Committees set up pursuant to directions of the Supreme Court of India. The mining lease does not have forest clearance.

The Hon'ble High Court vide its order dated 2.7.2003 in MCA No.350 of 2003 in WP No.286 of 2003 has restrained all activities on survey numbers identified by the Sawant/Karapurkar Committees as private forest. Operation of the lease therefore violates both High Court and Supreme Court directions.

Further, the persons operating the lease are illegally using a road made by them through government forest for which also no permission has been taken under the provisions of the Forest Conservation Act, 1980.

Apparently, the villagers of Colomba tried to stop the mining operations being carried out on forest land and on the lease in violation of the High Court's orders. Your administration, however, has sent a police force to protect the mining company and to enable it to continue to brazenly violate the orders and directions of the Hon'ble High Court.

I am writing to you to inform you of this situation hoping that appropriate enquiry and prompt action can be taken by you in the circumstances. If the work on the mining lease is not halted forthwith, however, the Goa Foundation will approach the High Court. This notice is to save you the embarrassment of being found in the wrong company.

Yours sincerely,

Dr. Claude Alvares
DIRECTOR

Petitioner

#2

IN THE HIGH COURT OF BOMBAY AND GOA AT PANAJI

WRIT PETITION NO: 136/2008

Rama Ladu Velip & Ors. ... PETITIONERS

v/s

State of Goa and Ors. ... RESPONDENTS

AFFIDAVIT-IN-~~EVIDENCE~~ Reply

I, Shri Uday H. Gosalia, son of late Hiralal Khodidas, major in age, Indian National, residing at Curchorem, Goa, the legal heir of the Respondent no. 11 above named being conversant with the facts of the case, do hereby on solemn affirmation beg to state and submit as under:

1. I say that I am the legal heir of late Hiralal Khodidas impleaded as Respondent no. 11 in the petition. I say that Hiralal Khodidas expired on January 2006 and I am one of the sons of said Hiralal Khodidas I say that I have read the petition and I have been instructed to file this affidavit for limited purpose of dealing with the admission of the petition, should rule be issued by this Hon'ble Court, I

crave leave to file a detailed affidavit, as I am instructed to restrict in this Affidavit the facts essential for dealing with the admission of the petition, suffice it to say that the allegations of fact, which are not specifically admitted and which are contrary to what is set out in this affidavit may be taken as denied.

2. At the outset, and by way of preliminary objections, I beg to state and submit that the petition though couched as one pro bono public is factually filed by the Petitioner no. 1 along with the rest of the Petitioners to vent out a personal animus against us for reasons best known to the Petitioners no. 1 and selectively against us. As a fact the petition is not filed in public interest and does not disclose any cause of action as facts hereinafter setout would establish and therefore, the same is liable to be dismissed in limine. That apart, I say that though the 2nd Petitioner refers to number of operating mines in the village of Colomba, in the Taluka of Sanguem, the Petitioners chose to selectively file this petition only against Respondent no. 11. The said action in fact, with respect, display motives and calls for dismissal of the petition in limine.

3. The facts hereinafter stated will disclose that the petition does not deserve admission much less interim reliefs sought for in the petition.

4. I say that the thrust of the Petitioner's case in the petition is (a) that the mining lease belonging to Respondent no. 11 does not have clearance under the provisions of the Forest Conservation Act that the environment clearance and the approvals granted for the operation of mine including the consent to establish are in violation of orders of this Hon'ble Court in Writ Petition No. 286/03. (b) That the environment clearance is in violation of the direction of Hon'ble Supreme Court in T.N. Godaverman case. (c) That the authority concerned including the Ministry of Environment and Forest have not considered the impact of mining activity on village environment. (d) That our continued operations of the mine and the other mines in the village cause destruction of the people's livelihood and it would cause destruction to the primary water resources. (e) That the Respondent no. 11 does not have approval of the Panchayat under Section 68 of the Panchayat Raj Act,

that no Sanad has been obtained by the Respondent no. 11 under the provisions of Goa, Daman and Diu Land Revenue Code, 1968, That there is no permission obtained under the provisions of the Town & Country Planning Act. (f) That the Pollution Control Board ought not to have issued consent to establish since the State Government has not approved the second installment of lease within the period of the lease.

Since no FCA

5. Now dealing with the issues urged by the Petitioners in the petition, I at the outset beg to state that acting on the complaint of the Petitioners, the State Government has through the Dy. Collector carried out a site inspection on 9-10-07 in terms and found that the apprehension of the Petitioner in so far as mining operation is concerned that they would cause depletion of water and would affect agricultural operations were misconceived as the mining operations were carried out following precautionary measures to avoid any damage to the surrounding environment and the ecology and in keeping with the requirements of law. I crave leave to refer and rely on the report dated 13-10-07 of the Dy. Collector after a site

inspection was carried out in the presence of the first Petitioner, in our presence and in the presence of representatives of the concerned departments. The said report was circulated to all the parties including the Petitioner no. 1, copy of which is annexed hereto as **ANNEXURE-A.**

6. I say that as a fact the allegations and apprehensions of the Petitioner contained in the petition are ill-founded with respect and motivatedly made and the following facts would disclose.

7. I say that way back in the year 1949 by a title of concession dated 11-7-1949, the erstwhile Portuguese Government granted to my late father a Mining Concession for Manganese and Iron Ore. I say that my late father commenced mining operations somewhere in the year 1949 and since then we have been extracting from the said mine iron ore and manganese. The said concession extended to an area of 70.1870 hectares and concession area covers properties, which have been now surveyed under New Survey under Survey Nos. 42 part, 43

part, 44 part, 45 part, 46 part, 54 part, 55 part, 56 part, 57 part, 58 part, 59 part, 67 part, 68 part, 69 and 70. With the coming into force of the Goa, Daman and Diu Mining Concession (Abolition and Declaration as Mining Leases) Act 1987, the mining lease was renewed for a period of 10 years with effect from 22-11-1987 to 21-11-1997 I say that a lease deed was executed between the State of Goa and my father on 7-12-1990. Prior to the expiry of the said lease period my father applied for renewal of lease and filed an application in Form J for grant of lease. On scrutiny of the application and against submission of mining plan the lease was extended complying with the procedures of law.

Incorrect

does not give date when it was extended

8. On the death of Respondent no. 11, I along with the other L.Rs. made an application for renewal of the said lease which is pending. As a fact all the applications for renewal of leases within State of Goa, which has expired in cases similar to us are pending disposal.

9. I say that we started exploration of ore at the inception manually by surface indication. In fact on 14-10-1996, we

submitted the first installation application for renewal of the lease. The second mining plan was submitted by us in the year 1998. I say that on our mining plan being approved by I.B.M., we applied for environment clearance under Environment Impact Assessment (E.I.A.) Notification 1994. Our application was processed and a public hearing was held on 31-08-05, for which notice was duly published in the local daily namely Herald on 20-7-2005, wherein it was indicated that a public hearing would be conducted at Gomant Vidya Niketan at Margao on 31-8-2005. The public hearing was held in the presence of representative of various departments including District Collector, South Goa, and Member Secretary of Goa Sate Pollution Control Board, Director of Departments of Mines, President of South Goa Zilla Panchayat, Senior Citizens and Sarpanch of V.P. of Colamba amongst other Sarpanches of the village of South Goa. I say that there were various members of general public also who attended the hearing and their presence was recorded. I say that none of the Petitioners were present for the said meeting. I say that after considering the views of the general public, and on consideration of the relevant data, the Respondent

no. 2 accorded to us environment clearance to operate the said mine. The said clearance inter alia imposed on us various conditions.

10. I say that the as regards the contention of the Petitioner that in Form III, the land covered by lease namely, property bearing survey no. 57/1 was shown as a forest but however, in Form I and XIV it was not so indicated. I say that as a fact, the entries in the survey records in Form I and XIV have been effected after following the due procedure under the Land Revenue Code, I say that in compliance with the procedures under the Land Revenue Code, the said entries were made after the records were kept open for objection after which the survey of the village of Colamba was promulgated. The Petitioners in fact at no point of time objected to the said entries. The Petitioners, therefore, cannot attribute motives to the said entries.

11. I say that the Petitioners also claim that we are carrying out mining operations without forest clearance as the land covered by lease falls within the area identified by Sawant Committee and Karapurkar Committee as private forest. I

say that the identification by Sawant Committee and Karapurkar Committee has not been accepted to be correct assessment by the State Government. The issue of the identification done by these committees is yet writ large, that apart, I say that we are carrying on mining activities outside the area earmarked as private forest. I say that we are mining within our leasehold rights right from the time of initial concession. I say that initially mining was done by us manually for both Manganese and Iron Ore. As a fact, when we submitted the mining plan to I.B.M. for the first time, the areas wherein we were carrying our mining operation for Iron Ore were shown at that time as open pits. I say that in the year 1996 or thereabout, pursuant to the identification done by the Sawant Committee, there was a demarcation done at site by the Department of Forest, demarcating the area falling in part of property bearing Survey No. 57 and property bearing Survey no. 68. The said demarcation was done by affixation of boundary identification marks which are painted in yellow colour at site, and each of these marks have distinctive numbers. I say that I am annexing hereto as **ANNEXURE-B** a

Surface Plan indicating the area earmarked as private forest based on the demarcation done at site.

12. I say that in the year 1998, when we submitted the second phase plan for approval to I.B.M., we have inter alia indicated where the mining pits would be located. I crave leave to refer and rely on the said plan as and when produced. I say that the extraction of ore is confined to the area outside the area indicated as "private forest". I say that as a fact, we are not doing any mining in the area identified as private forest. The mining activities carried by us as stated above falls outside the area earmarked by the Forest Department as private forest. I say that the said fact is well within the knowledge of the Petitioners. As regards the claim of the Petitioner that we have illegally cut trees within the said mining lease, I say that we have not cut any trees nor are we booked for any offence for cutting trees. As a fact, no offences were booked against me or any of the heirs of late Hiralal Khodidas. More so the surface rights also do not belong to my family.

13. I say that as a fact mining activities which are being done by us are in terms of the approved mining plan and under the supervision of I.B.M. outside the area which the Forest Department demarcated as private forest and on following the requisites of law according to the mining plan and under the supervision of the officers of I.B.M. who conduct regular inspections at site.

14. Concerning the grievance of the Petitioner that the mining operations which we are doing is causing depletion of water and also caused damage to agricultural operations and the Agricultural properties in the vicinity, I say that, the said fact is not true, with respect, and hence the allegations are denied. The Petitioners rely on some reports of officer to support the contention. I say that at the outset that the said reports have been made at our back, without any notice to us and no inspection in fact was held at site, upon any notice being given to us. I say that I apprehend that the said report has been procured by the Petitioners at our back, without ascertaining the correct facts, which fact is evident from the report of the Dy. Collector at Annexure-A. The veracity of the facts averred

in the concerned letters relied by the Petitioners is disputed. As a fact, the Dy. Collector basis his fact finding quest also on a report of the Agricultural Officer.

15. I say that the agricultural lands are at a distance of about ½ kilometer from the working mining pit and at a distance of about 300 metres from our boundary. I say that the permissions granted to us for carrying out mining operations have been granted, taking into account the required balance which has to be struck between the environment. I say that in our mining plan for the first phase as well as for the second phase that we prepared and submitted for approval, we did it taking into account the balance which has to be struck between our activity and the preservation of the environment. I say that we have all throughout carried out mining in a scientific manner. Mining was done by us manually for Iron Ore and Manganese. In fact in our mining plans we have always provided for garland drain protectivity bunds and parapet walls and silt retention ponds in and around the mining pits and over burden rejection dumps were located to arrest surface run off and generation of silt respectively. In fact

our plans were approved by I.B.M., only on them being satisfied that the plan designed by us, contained sufficient environmental measures. In fact admittedly the report of the Dy. Collector which relies on report of Agricultural Officer makes it evident that our mining has not caused any siltage in the agricultural lands.

16. The case of the Petitioner is that there is a nallah which carries the rain water which drains to the agricultural land. I say that as a fact the said nallah is a seasonal nallah carrying on rain water. I say that we have ensured and planned our mining activity as indicated in the mining plan in a manner that there is no siltage or run off from the mine to the said nallah. I say that all along our over burden dumps which are meant for back filling at a later stage, we have provided a retaining wall of a length of 911 metres and thickness of 1 metre adjacent to the boundary of the lease besides providing a retaining wall of width of 1 metre thickness along the nallah. We have also provided in these places coco filters specifically designed as an additional precautionary measure. I annex hereto as **ANNEXURE-C** the photograph showing the coco filters

provided at the said retaining walls. I say that we have provided silt retention ponds and water catchment ponds for monsoon water as designed in our approved mining plan. Our mining plan has been approved by I.B.M. after the site is inspected by their officials. I say that the environmental impact assessment management plan is integral part of the mining plan and the said assessment was carried out by us through a recognized agency, namely Mineral Engineering Services. In the said Impact Assessment Report prepared by the said agency, the issue of water quality, air quality, noise pollution impact of mining activities on the agriculture is addressed and on going through the said Impact Assessment Report submitted by us the I.B.M. approved mining plan.

17. When we applied for environment clearance to the Ministry of Environment and Forest, we had to submit as part of our application a study of the ambient air, noise quality, and the existing quality of water, and the measures to be taken by us, to maintain and improve the ambient air, water qualities and hydro-geological report to the Committee. I say that we had to also submit the data

concerning agricultural land and the impact of our activity on the agricultural land in the locality. I say that this Impact Assessment was also done by M/s. Mineral Engineering Services. The said engineering firm is a recognized consultant by the Ministry of Environment and Forest as well. The Impact Assessment Report was part of our application, which we submitted to the Ministry of Environment. Subsequently Ministry of Environment and Forest required additional information from us concerning inter alia hydro-geological report of the area. Accordingly the said firm prepared an additional Environment Assessment Report, on carrying out the necessary study, which we submitted to the Ministry of Environment. I say that based on the said reports and the data furnished by us which includes the approved mining plan, and upon applying its mind to the said data, Ministry of Environment and Forest granted us environment clearance, and inter alia imposed on us conditions which are setout in the said letter at Annexure-10 of the petition.

18. The Petitioners further contend, that we have obtained the environment clearance on misrepresentation of facts and

inter alia on the ground that we have not disclosed that the areas falls within the forest area. I say that the said allegation is false and baseless and the same is denied. I crave leave to refer and rely on the application made by us along with the annexures annexed thereto which contains accurate details which have been furnished by us to the authorities in compliance with the statutory requirements. We have not carried out any mining activities in the area earmarked as private forest though we do not admit the correctness and the authenticity of the demarcation done by the Forest Department on the basis of the report of Sawant and Karapurkar Committees. I say that as a matter of fact on 13-3-08, Range Forest Officer along with Forest Guard, Senior Surveyor from Forest Department and officials of Department of Mines and Geology visited the mine to ascertain, as to whether any mining activities were being carried out in the area identified as private forest. I say that, at the said inspection it was ascertained that the mining which is being done by us was outside the area marked by the Forest Department as private forest.

19. On having obtained environment clearance, we applied to Goa State Pollution Control Board for consent under Air (prevention and pollution control) Act and Water (prevention and pollution control) Act. The Pollution Control Board on going through the data submitted by us and upon applying its mind granted us permission and also imposed certain conditions as stipulated in the said permission. I crave leave to refer and rely on the said permission. I say that in compliance with the condition imposed, we have set ambient air monitoring stations in core zone and buffer zone and we are doing regular checks of the air quality, I say that similarly we are taking measures to monitor water and noise quality, by carrying regular checks at site through a recognized agencies. I say that we have been collecting water samples and carrying analysis of pre-monsoon, post-monsoon and monsoon waters, to find out the quality of the water. I crave leave to refer and rely on the relevant assayers reports.

20. I say that as a fact, we do not utilize any bulk water for our mining process, as we do not do any wet processing of ore. I say that Colamba Village is part of Sanguem Taluka

which is irrigated by River Kushavati though the said river is not in the vicinity of our mine.

21. The Petitioner also contends in the petition that our mine is situated within a distance of 5 kilometers from the Wildlife Sanctuary the said allegation is denied as being false. Our mine is well beyond 5 kms. from the Wildlife Sanctuary of Netravalli.

22. Now dealing with the contention of the Petitioner that we have not applied for change of use under the provisions of Land Revenue Code and that we have not applied for permissions from the Village Panchayat under Section 68 and that we have not obtained permission under Town & Country Planning Act for cutting of hill, I say that at the outset ours is a concession granted in the year 1949 and the mine was operational all throughout even at the time of enactment of Land Revenue Code, Town and Country Planning act, Goa Panchayat Raj Act, on a bonafide belief that the question of seeking permission under the provisions of the said acts were not required and keeping with what the other holders of concession are doing and

had been doing, we have been carrying on mining activities on the bonafide belief that the provisions of the said act do not apply to our mining activities.

23. As regards the claim of the Petitioner that the Respondent no. 11 has entrusted the mining operations to Respondent no. 12. I say that, that is not true and hence the said fact is denied. I say that the Respondent no. 12 is a purchaser of ore produced by us.

24. Now dealing specifically with allegations of facts contained in the petition parawise, in so far as they are to be dealt with for the limited purpose of the admission of the petition

25. Contents of para 1 to 5 are subject to what is stated in this affidavit. With regard to contents of para 6 I beg to state as under, I deny that the mining activity have been initiated in violation of orders of Supreme Court and order of this Hon'ble Court and without requisite N.O.C. under Forest Conservation Act, Town and Country Planning Act, Land Revenue Code and Panchayat Raj Act. I further

deny that the mining activity is taking place in the land zone as forest orchards or agriculture in the Regional Plan and the portion identified by the Expert Committee as private forest, I say that I have setout in detail the facts concerning the allegations contained in para 6 of the petition in the foregoing paras.

26. With regard to contents of paras 7 and 8, I deny that we are carrying on uncontrolled and illegal operation of mine which allegedly has degraded the river, water source, forest, paddy-fields, nallah as alleged. I say that the river which the Petitioner is referring to is about more than 4 kms. From the site of our mine. I deny that the mining operations carried out by us affects the livelihood and environment of local people and that the authorities have not considered their right to life prior to grant of lease or subsequent approvals. I say that I have setout in the preceding paras the facts concerning the grant of permissions which goes to establish that the allegations of the Petitioners are baseless and without any merit.

27. With regard to contents of para 9 and 10, whilst denying the allegations therein contained, I say that the village of Colamba has mixed population which is engaged in various business and employments. The village has a number of mines besides agricultural fields and agricultural property. I say that the inhabitant of the village to a large extent depends on ore transportation from various mines in the village by using their trucks, earthmoving machinery which are used for mining activities. The locals in the village are also employed in the various mines situated in the village. Contents of para 9 and 10 which are not specifically admitted may be taken as denied.

28. With regard to contents of para 11 though the areas covered by Survey no. 57 part and 68 part fall within the area identified as private forest, though correctness and identification of the said area demarcated as private forest is disputed by us, I say and submit that as stated above, we are not carrying any mining activities in the area earmarked as private forest. As regard the allegations contained as to identification of the property as forest in

Form III, I have setout the relevant facts in the preceding paras. Hence the contents of para 11 are denied.

29. With regard to contents of para 12, whilst disputing the demarcation made by the Forest Department and the identification made by the Sawant and Karapurkar Committee in respect of Survey no. 57 part and 68 part, I say and submit that the said demarcation has been done without any notice to us. That apart, our lease area comprises of property bearing Survey No. 42 part, 43 part, 44 part, 45 part, 46 part, 54 part, 55 part, 56 part, 57 part, 58 part, 59 part, 67 part, 68 part, 69 and 70. I say that we are not carrying out mining in the area earmarked as private forest. I say that in the event we decide to carry out mining activities in the said area, the same shall be done only after obtaining permissions under the Forest Conservation Act.

30. The contents of para 14, I deny the same for the reasons setout in the foregoing paras. I say that as stated above no cases have been filed against us.

31. With regard to contents of para 15 are not admitted and the same are specifically denied. I say that I am not aware of any report referred to by the Petitioner at annexure-6 to the petition. I deny that the said report reflects the correct factual situation. The said report if at all is procured at our back and we are not given any notice on the imputations contained in the said report. I specifically deny that our mining activities are being carried out in haphazard manner. I say that we are not dumping any rejects on vegetated area. I dispute the authenticity of the said report. The contents of para 15 which are not specifically admitted be taken as denied.

32. With regard to contents of para 16, I say and submit that the Forest Department owns property bearing survey no. 72 in the Colamba Village and Survey No. 2 of Curpem Village of Sanguem Taluka. I say that there is a public road passing through the said property which has always existed and which road touches to the property bearing survey no. 71/1, which is adjacent to our leasehold property bearing survey no. 68. I say that we have a right of access through the said property bearing survey no.

71/1. I say that we always used the public road passing through the land belonging to the Forest Department even prior to Liberation. I say that the said road goes upto the settlement of the village and passes through various properties in between. I say that as a matter of fact, the mine owners having leases in Curpem and Curdi village use the said road, however about a month back, for the reasons best known to the Respondent no. 5 has blocked our access by dumping mud on the boundary of their property which is also the boundary of the property bearing survey no. 71/1 through which we have right of access. I say that we have represented to the Forest Department and pointed out about the said fact. I say that in fact the said Respondent no. 5 decided to permit us to use the said access and granted us permission. It is denied that we have illegally opened the road and are using the same without permission.

33. With regard to contents of paras 17 and 18, it is stated and submitted that the public hearing conducted by the Respondent no. 6 was in keeping with the procedure to consider our application for expansion of production

which includes mining activities or iron ore and manganese. It is denied that Environment Impact Assessment Expert Committee or State Pollution Control Board or Ministry of Environment Forest have not shown concern of the forest land on the lease. I say that right from the inception the location and mine pits and sites, where we would be mining, were shown and indicated as outside the area which Sawant and Karapurkar Committees have earmarked as forest area and which the Department has identified at site by marks, as indicated in Annexure-B hereto annexed. I say that in our latest plan submitted for approval and approved by I.B.M., which is valid for a period from one year to 5 years from the year 2007 to 2012, we have indicated the site where the mining pits would be located and where mining would be done year wise for the said 5 years period. From the said plan, it is evident that the mining activity which we plan to carry for the said 5 years period would be outside the area earmarked by the Forest Department as private forest. I say that as stated above, we have not done any mining activity within the area demarcated as private forest by the Department of Forest. I annex hereto as **ANNEXURE-D**

the said plans approved by I.B.M. for the year 2007 to 2013 Contents of para 18 are therefore denied.

34. With regard to contents of para 19, it is denied that the Minutes of Environment Impact Assessment Expert Committee records incorrectly that no forest land is involved. I say that the said observation has to be seen in the context of the mining plan submitted by us. I deny that the said Committee recommended without considering the right of the villagers and without considering the record of public hearing as alleged. I say that as stated above we have furnished along with our application the requisite data in the Environment Impact Assessment Report prepared by experts and on application of mind on the said data permissions were granted to us. I also deny that the distance of wildlife sanctuary shown by us is wrong.

35. With regard to contents of para 20, I say and submit that there is a provision for filing appeal against the environment clearance granted by the authority. I say that none of the Petitioners who claim to have interest in the matter did even participate in the public hearing, they also

did not choose to avail the remedy of filing an appeal. Rest of the contents of para 20 are denied.

36. With regard to contents of para 21, it is denied that the environment clearance contains incorrect facts as to the ownership of the land. It is denied that the land belongs to the Communidade as alleged. I say that none of the land which is forming part of the lease belongs to the Communidade. I say that the Records of Rights to that effect make the said fact very clear. I crave leave to refer and rely on Form I and XIV in respect of survey numbers forming part of our lease.

37. The Petitioners are taking advantage of the mistake that has cropped up in the letter of clearance where the figure of 1 lakh million m3 appears. Apparently that is a typographical mistake in the application, which disclose that the figure is 1 lakh m3 by mistake the word million was inserted or printed. The consent letter otherwise discloses application of mind were reference to figure and data disclosed in the application has been incorporated and

conditions have been accordingly incorporated in the environment clearance order.

38. It is stated and submitted that the averments in para 21 are therefore denied.

39. With regard to the contents of para 22, the averments are denied. Necessary precautions and compliances setout in the letter are being followed as we outlined in the preceding paras.

40. Contents of para 23 the contents are denied, the same are bereft of any material particulars and in fact do not conform with the factual status which is otherwise. It is stated and submitted that we are carrying on mining operations in a scientific manner and in conformity with measures imposed in Annexure-10 and in the approved Mining plan. The fields and agricultural land in the periphery of the mining lease are all under cultivation and have healthy growth. Contents of para 23 are therefore denied.

41. With regard to contents of para 24, the averments therein contained are false and motivatedly made. The alleged reports of the Agricultural Officer do not conform with the fact situation. We have not been parties to any of the reports neither notices have been given to us of any complaints of the agricultural department or zonal officer. Apparently the reports if made, they are at the instance of some vested elements including the Petitioners, without proper application of mind. We have been carrying on mining on taking the necessary precautionary measures to ensure that there is no run off silt from the mine. I deny that there is any dust pollution and that the same affects pollination of crops. I say and submit that we are carrying regular monitoring of the ambient air in the locality within the precincts of the lease and outside the precinct of mine. I say that we have been carrying seasonal monitoring of air, water and noise. We have been filing reports to the Ministry of Environment and Forest, It is denied that our activities will affect the flora and fauna of the locality and that it will disturb the livelihood of 80 to 90 families as alleged. The contents of para 24 which are not specifically admitted may be taken as denied.

42. With regard to contents of para 25, I say that we were carrying on the mining activities much prior to the coming into force of the Panchayat Raj Act and having been continuing the same till date. I say that ours is an existing mining activity and that the purported resolution taken by the Gram Saba does not fall within the realm of jurisdiction of the Gram Saba and that same is passed without there being any jurisdiction to take such a resolution. I say that in any view of the matter the said resolution is not a representative resolution, in as much as, the total population of the village of Colamba is about 3000 people or thereabout and the said resolution is taken in the absence of required legal quorum to pass said resolution. The said resolution has been purportedly taken in the presence of 57 members, who purportedly attended the said meeting, assuming but not admitting that such a meeting has at all taken place. I say that as a matter of fact, that at no point of time, the Panchayat has raised any issue on our mining activity. Contents of para 25 are therefore denied.

43. With regard to contents of para 26, I say that we are not doing any mining in violation of environmental laws. The allegations contained in para 26 which are contrary to what is stated hereinabove may be taken as denied. I also deny that the mining activities are being carried on by us in violation of the orders of the Hon'ble Supreme Court.

44. With regard to contents of para 27 he same are denied. I say that the said mine was operated by the Respondent no. 11 during his lifetime and after the death of Respondent no. 11, I along with the other heirs of Respondent no. 11 are operating the said mine. I say that the Respondent no. 12 is only buyer of the ore excavated by us at the mines. Rest of the contents of para 27 which are not specifically admitted may be taken as denied.

45. With regard to contents of para 28 and 29, I say that ours is mining concession granted by the erstwhile regime and the mining activities were being carried out even prior to coming into force of Town and Country Planning Act and the amended provisions namely section 17(a). I say that on a bonafide belief that the Town and Country Planning

Act would not apply to our case as our excavation had commenced much prior to the coming into force of the said act and keeping with what the other holders of concession are doing and had been doing, we have been carrying on mining activities on the bonafide belief that the provisions of the said act do not be apply to our mining activities.

46. With regard to contents of para 30 I say and submit that the authorities in our case including the Dy. Collector, who had on inspection at site along with the officials of the mining department, zonal agricultural officer, engineer of water resources on 13-10-2007, had opined that there is no violation of laws by this Respondent.

47. With regard to the grounds urged by the Respondents namely 1 to 4, I say and submit that on facts stated above the said grounds are not sustainable. With respect to the ground 4 raised by the Petitioner, I say that we are providing employment in a large scale to the locals and the people of the community by way of transport, labourers, supervisory jobs, the transport operators amongst others

are also from the Velip community and they are all from the village who provide us transport facilitie4s on contract basis.

48. With regard to ground 9 and 10, 11,12 the same are denied. It is denied that our mining lease is on a steep slope at about 80% gradient as alleged. I say that none of the apprehensions of the Petitioners are germane. I say that the renewal of the lease is pending consideration before the Government we have filed the application and the same is under process.

49. I say that the contents of the petition which are not specifically admitted and which are contrary to what is stated herein above may be taken as denied.

I the deponent above named do hereby on solemn affirmation beg to state that whatever stated at para 1, 2 part, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42 part, 43, 44, 45, 46, 47, 48 are facts true to my own knowledge,

and whatever stated at para 2 part and 42 part are submissions based on legal advise, which I believe to be true.

SOLEMNLY AFFIRMED AT PANAJI

ON THIS 24TH MARCH 2008 DEPONENT

Identified by me:

Advocate for Respondent No. 11

MINUTES OF THE MEETING CONVENSED BY THE SUB DIVISIONAL MAGISTRATE OF QUEPEM SUB-DIVISION QUEPEM GAO ON 13/10/2007 TO TAKE STOCK OF THE LAW & ORDER PROBLEM PERTANING TO OPERATION OF MINE BY HIRALAL KHODIDS & COMPANY PRESENTLY OPERATED BY FOMENTO MINING GROUP

The following members were for the meeting

1. Shri Parag Nagarsekar, Mamlatdar of Sanguem.
2. Shri Sudin Natu, Mamlatdar of Quepem
3. Shri Hector Fernandes, Asstt. Geologist, Director of Mines & Geology, Panaji
4. Shri H.M. Rangaraju, Exe. Engineer, W.R.D.
5. Shri Paily P., A.E. WRD Sanguem
6. Shri B.S. Prabhu, ZAO Sanguem
7. Shri P.B. Shirvoikar, PI Quepem Police Station
8. Shri Gajanan Haribar Sarkare, Sr.Manager
9. Shri Atul V. Makode, Mines Manager
10. Shri P.T.Naidu
11. Shri Vijay D Kerkar
12. Shri Gokuldas K Naik
13. Shri Sandeep Gaonkar
14. Shri V.K. Prabhu Dessai
15. Shri Rama L. Velip
16. Shri Egypt D'Souza
17. Shri Telu Dias
18. Shri Rajanikant Velip
19. Shri Ramchandra Velip
20. Shri Sebastiao D'Souza
21. Shri Ajay N. Naik
22. Shri Gaurish Naik

At the outset the SDM Quepem welcomed the gathering & disclosed that the meeting was convened inorder to tackle the law and order problem which has been constantly taking place at the site of the operation of mine by Hiralal Khodidas & Company which is presently operated by Fomento Mining Group. The main issue which the villagers were concerned of is about adjoining nallah which is passing on the periphery of the mining activity & secondly about the run-offs of the mines getting accumulated in the adjoining agricultural lands.

Contd 2

The villager named Rama Ladu Velip addressed to say that the sludge of the mines is affecting the paddy fields and the lands which are being cultivated by the Schedule Tribes is getting destroyed due to the silt. The land which is classified as forest land is also being surreptitiously utilised for mining activity & the forest resource is getting depleted day by day, Shri Rama further pointed out that the vibration caused due to the rippers, has developed cracks to the households of the inhabitants who reside in the vicinity of the mining area and that the water table of the land has been substantially reduced.

Shri Venkatesh Keshav Prabhu Dessai, another villager pointed out to say that the agricultural lands in the vicinity of the mining area are giving a double yield-kharif & Rabi type due to the availability of water source from the nallah. He also stated that the plateau used for mining acts as a reservoir for harvesting water during monsoons due to it's capillary action and that the continuance of mines would put to knaught the perenial source of water which is used for agricultural operations. He further stated that protective measures taken by the mining company serve no purpose and that the operation of the mines be stopped.

Shri Salvador Dias a villager submitted that the Government is encouraging and boosting agricultural activity by giving various types of subsides, but on account of the operation of the mines the doles dished out by the Government would serve no purpose. He also stated that there would be no grazing ground left or available for the cattle and prayed that the mines be stopped from conducting any of its operation.

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Shri Hector Fernandes was representing the Director of Mines & Geology. He stated that the mining concession was in existence since 1949 by the virtue of Title of Concession No.6 for Iron and Magnese. The activities were going on manually for extracting Magnese ore and since the past 18 months the activity has started full swing by usage of heavy earth moving machinery. The Mining Act is Central Act and the entire activity is controlled by the Central Government and the monitoring aspect is done by the Directorate Of Mines, is what Mr. Hector had to say. The approvals for the operating of the mine have been given by the Indian Bureau of Mines after studying the mining plan which is accompained by the study of Environment Impact Assessment. The concers of environment are also looked after and taken care of by the IBM. The environmental clearance for the present mine was given by the Ministry of Enviroment and Forests on 12/3/2007 and is valid till date. Mr. Fernandes also stated that the area of lease given to the mine is 70,1870 sq.mts and he feigned ignorance if any part of the said land of mining concession has been identified as private forest. The usage of machinery on the mines is also subject to the Mines Safety Act is what Mr. Hector had to say.

The Executive Engineer Mr. Ranga Raju who is also a Canal Officer attached to the Water Resources Department was present and he placed on record the series of reports which he has made from time to time alongwith photographical evidence of the nallah. The said correspondence and measures suggested by the Canal Officer are placed on records of the file. According to the Canal Officer the average depth of the nallah is 2mts.He submitted that only when the nallah is completely filled with silt, than and only than it would start overflowing and accumulating in the

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properties. He stated that due to precautionary measures adopted by the mining firm, the silt accumulated in the nallah is less for which measures could be taken for desiltation. He also submitted that the various barriers put across by the mining firm arrest the sludge/run-offs to a great extent.

According to the Zonal Agricultural Officer Shri Babaj S.Prabhu, he stated that the only if the nallah is completely filled up than only the damage would start accruing in the paddy fields. He also pointed out to his report submitted to the Collector in April 2007, whereby he has highlighted the ill effects that would plague the agricultural sector in the years to come.

The representative of the mining company i.e. the Senior Manager Mines Shri Gajanan Karkare submitted that all precautionary measures have been adhered to by the firm as per the directions given by the Chief Secretary of Goa. He also submitted that the mining company is always open for suggestions which are constructive in nature and that the activities carried out are legal in nature.

Adv. Hemkant Bhangui pointed out to say that out of entire village only a handful villagers were opposed towards the project and a majority of them are for it. He stated to say that the nallah is clear from all respect and that the activity cannot be halted inspite of having valid legal permissions. He also stressed on the report of EIA which was banked upon by the Indian Bureau of Mines whilst granting the permission. He also pointed out to say that when the mining concession has not be challenged since the past more than 5 decades the question of stopping any activity of mining does not arise.

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- 5 -

Some truck owners from the locality namely Shri Suryakant Naik and Shashikant Devidas submitted that the activity should be permitted for employment and for doing ancillary business activities connected with mining.

A person name Alok Vijay Mudgaonkar who is a resident of Marcel Khandola under the banner of Gram Vikas Kendra spoke on the ill-effects of mining activities ranging from the issue of water depletion to overloading of trucks. He also stated that the mining companies have not adhered to the norms laid down to re-do the earth and bring it back to its original position by plantation of trees. He also raised apprehensions and concern for the village of Rivona, Colomba and surrounding areas by bringing it to the fore that some two more mining companies are likely to surface in the locality which according to him would add more misery than any good to the local populace.

Another person by name of Shri Narayan Colambkar stated that the road which is presently used by the mining firm is his personal private land and he stated that the road cannot be put to use for mining operations.

BRIEF ANALYSIS

After hearing all the parties present i.e. the various agencies of the Government, the agitators and the representatives of the mining firm, it has been made crystal clear to one and all, that the jurisdictional limits of the SDM are minisale and that it is not clothed with powers to order stoppage of the mining activity considering the valid permissions which the mining firm has with them. Although the agitators have raised a acloud of suspicion in their minds about the grant of permissions, as an SDM, the office cannot go into the merits of each and every permission granted to the firm.

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All what the SDM would want is maintenance of peace and tranquility in the society and if there is any contravention on this count, than the SDM would have to step in and take adequate measures to maintain the peace and tranguility. On the personal visit and inspection of the mining area on 9/10/2007 the SDM had collected soil samples for testing from two different sites i.e. one from the area which was alleged to have deposits of mining silt and the other from the area which was not said to be affected with mining silts. The soil testing was carried out by the South Goa Branch of Agriculture Department and the reportswhich carrived today disclosed that both the solis had similar readings, which means to say that the fertility count of the soil has not been disturbed. The report too was tabled today for scrutiny before the meeting. So also the personal inspection of the nallah did not show the SDM the presence of alluvial deposits from the mines.

The core issue being that of deposits in the nallah and damage to agricultural lands has been properly answered by the Canal Officer and the report of soil testing by the Agricultural Department.

As regards the issue of road,although a hue and cry has been raised by the alleged property owner, this office opines that for all purposes the said road has to be treated as a public road. The road is pucca in nature and perhaps the PWD or the local authority must have tarred the same. Considering the fact of monies being pumped in for construction of the road from the excheque, preferential right of use of the road would obviously be for the public and hence it is deemed to be considered as public road. However, if Shri Colombkar has a better title over the said road which leads to the mines, he is at liberty to knock the doors of the forum having Civil jurisdiction. Preventing usage of the said road by using

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muscle power or by illegally blocking the same through other means is not a healthy sign and no law of the land would permit any person to do such an act.....

M E T H O D O L O G Y TO ADOPT PREVENTIVE MEASURES TO CURB ENVIRONMENTAL DEGRADATION

Degradation of environment espicially due to mining has been an issue which has from time to time being raised before various for a including the Honourable High Court and Honourable Supreme Court. On every given occassion it has been a practise to issue directives to prevent environmental degradation as mining reserves cannot be stopped from being explored and exploited as is is a part and parcel of national wealth

Public Private Participation (PPP) is the need of the hour to bring about transparancy in the sdoption of preventive measures to curb environmental degradation. This proposal was put forth to the public which has been readily accepted. The committee members shall visit the mining area every month and suggest measures from time to time. The committee should chalk out its own programme of field visit preferably in the first week of the every month and within the first ten days of every month should submit a report to the Mining firm and the Collector (S) with a copy endorsed to the SDM of the Sub Division of Quepem. The mining firm should than adopt the preventive measures in the same month itself and when the Committee members pay their field visit in the ensuing month they should assess the measures so adopted by the firm.

In the set up of PPP the degradation of environment which is at its optimum would get reduced to great extent and finally there would a day

Contd..8

where there would be zero tolerance to environmental degradation.

At any given time, if there are any deposits in the nallah the mining company should bear the total cost of desiltation by taking the techanical know-how from the Canal Officer.

The run-offs from the mine in the agricultural properties could also be properly channelised through the talling ponds by way of which the paddy fields would not get destroyed.

The committee should comprise of three villagers the names of which has to be duly vetted by the Village Panchayat of Rivona, the Mines Manager & Mining Engineer, Officials from each department i.e. The Zonal Asgricultural Office, Forest Department, Directorate of Mines and Canal Officer from WRD.

CONCLUSION

Under the above premises which has been espoused in the methodology part, the SDM called upon the parties present to maintain peace , tranquility and decorum and if need be to knock the doors of the appropriate forum to stop the operation of the mines, if they are insisting on the same. The SDM also called upon the gathering that the mines would start operating from 15/10/2007 and if there is any law and order problems then action would be initiated against them as per the law in force. The meeting thereafter ended with these directives.

13/10/07

(Johnson Bedy Fernandes)
Deputy Collector & S.D.M.,
Quepem – Goa.

C.C. for information to:
1. The Collector and District Magistrate (S), Margao-Goa, with a request to kindly initiate steps to form a core committee as espoused in the methodology part of the minutes drawn and forwarded herein

IN THE HIGH COURT OF BOMBAY AT GOA

Writ Petition No. 136/2008

Shri Rama Ladu Velip and Ors. .... Petitioners

V/s

State of Goa and Ors. .... Respondents

INDEX

1.	Affidavit in reply on behalf of Respondent no	
2.	Report dated 27/3/2007	Exhibit R-1
3.	Letter along with list of compensation paid to farmers	Exhibit R-2
4.	Inspection report	Exhibit R-3
5.	Minutes of the Meeting	Exhibit R-4
6.	A plan showing the leased area viz-a-viz the survey numbers of properties	Exhibit R-5
7.	Plan showing the demarcated private forests	Exhibit R-6
8.	Surface plan of the lessee	Exhibit R-7

Panaji-Goa

Date:-24/3/2008

Adv for the Respondent no 7

IN THE HIGH COURT OF BOMBAY AT GOA

Writ Petition No. 136/2008

Shri Rama Ladu Velip and Ors. .... Petitioners

V/s

State of Goa and Ors. .... Respondents

AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO.7

I, J. B. Bhingui, major of age, Indian National, having my office at Panaji, Goa, do hereby on solemn affirmation state and submit as under: -

1. I am presently posted as Director, Directorate of Mines and Geology, Government of Goa. I have read the contents of the petition and its annexure and I have understood the same. I am filing this affidavit for the limited purpose of opposing admission of the present petition and grant of interim relief. I crave leave to file detailed affidavit in case this Honourable Court issues Rule in the present petition. I say that I am not dealing with each and every averment in the petition at this stage and I should not be deemed to have admitted any of the allegations, which are not specifically dealt with in the present petition. I deny each and every allegation of the Petitioner, which is inconsistent with and contrary to whatever stated by me hereinafter.

2. Among other reliefs sought, Petitioner is seeking the quashing of Environmental Clearance granted by the Ministry of Environment and Forest.

It is submitted that under the provisions of National Environmental Appellate Authority Act, 1997, it is provided that any person aggrieved by an order granting Environmental Clearance may prefer an appeal to the National Environmental Appellate Authority constituted under Section 3 of the said Act. It is therefore submitted that so far as this relief is concerned, the petition is not liable to be entertained in view of the remedy provided under said Act.

3. I say that during the erstwhile Portuguese Regime, mining concession was granted under the law in force at that time. The Parliament enacted Goa Daman and Diu Mining Concession (Abolition and Declaration of Mining Leases) Act, 1987 by which the mining concession granted during the Portuguese Regime were declared as mining leases under Mines and Mineral (Development and Regulation) Act, 1957 (for short the MMRD Act) and Rules made thereunder. The 1987 Abolition Act was challenged before the Bombay High Court and the Bombay High Court upheld the validity of the Act. Special Leave Petition against the same has been filed before the Supreme Court. The matters are pending in Supreme Court.

4. The lease which is the subject matter of present petition was a mining concession granted to Respondent no. 11 during the

erstwhile Portuguese Regime and is now deemed mining lease under MMRD Act.

5. I say that vide application dated 21/11/1988, Respondent no. 11 applied for renewal of deemed mining lease under TC No.6/49. Approval was given by Government of India vide its letter No. 5/6/90-MV dated 23/01/1990 under Section 8 (2) of MMRD Act for renewal of said mining lease, for a period of 10 years. Accordingly the mining lease was renewed for a period of 10 years from 22/11/1987 to 21/11/1997. A Lease Deed dated 7/12/1990 was executed.

6. Vide letter dated 15/10/1996, Respondent no. 11 applied for renewal of mining lease for a further period of 10 years. That application is pending and hence there is a deemed extension of the lease in term of Rule 24 (A) (6) of the Mineral Concession Act,1960. The Respondent no. 11 has applied for further renewal of the said mining lease vide his letter dated 10/11/2006 and the same is under consideration of the Government. The present status of the lease is that there is deemed extension of the same and the lessee is entitled to carry out mining operation in accordance with law.

7. I say that Respondent no. 11 has obtained the following permissions as required under law.

   a) Environmental Clearance dated 12/03/2007 issued by Ministry of Environment and Forest.

   b) Approval of mining scheme by Indian Bureau of Mines , Government of India.

c) Approval for progressive mine closure plan granted by Indian Bureau of Mines dated 29/06/2005.

d) Approval of mining plan by Indian Bureau of Mines vide its letter dated 27/07/2007.

8. I say that in the petition, allegations are made as regards carrying out of mining operation in areas declared as forest area, destruction of water sources, degradation of paddy fields and nalhas etc.

9. I say that the mining operations are being inspected from time to time and remedial measures are suggested in order to ensure that no damage is caused to the surrounding area by way of siltation and or otherwise and for proper and safe mining operations.

10. I say that from time to time the Villagers from Colomba Rivona have made representations complaining about the ill effects caused by the mining operations. Simultaneously representation have also been received stating that the mining operations do not cause any inconvenience nor any hardship to the Villagers.

11. In any case, as is the obligation of this Department, periodically inspection have been carried out in order to ensure proper operation of the mine.

12. I say that inspection was carried out on 27/03/2007. Petitioner No. 1 inspite of being notified did not appear for the inspection. The report of such inspection was submitted on 27/03/2007.

The report indicates that the lease was earlier worked for Manganese Ore. A new site has been started to mine iron ore and mining activities for extraction of iron ore was commenced on 24/10/2006.

As regards precautionary measures, the lessee is in process of constructing double walls of boulders parallel to each other over a length of 600 mts. each, height of 1.2 mts. and width of 0.2 mts. The report further states that lessee's representative had informed that all the cultivators/farmers of rice field whether cultivated or not cultivated or whether likely to be damaged or not, downslope of the mine have been compensated in advance and an advance compensation had been paid to the tune of Rs. 34 lakhs to 33 farmers to cover the period of next 5 years and subsequently 5 years period, the same will be paid with 10 % increase. A list of beneficiaries was given. The report concluded by stating that the mines manager was verbally directed to;

a) To construct a mud embankment with boulder pitching on the outsider along the lower slopes of working pit to contain all monsoon runoff.

b) To submit a plan/ map of the area showing the mining lease boundary, the area compensated in advance for likely damaged area covered by the

lease, the working pit and the proposed environmental protective measures.

A copy of the Report dated 27/3/2007 is annexed as **Exhibit R-1**

13. Respondent No. 11 thereafter submitted a list of names showing compensation paid to farmers and a surface plan showing area owned, area compensated and environmental protective works. In the plan submitted, the Respondent no. 11 has proposed protective measures namely construction of a rubbles stone wall on the down slope much within the boundary of the property, construction of a laterite boundary near actual mining area and construction of 4 settling ponds . Liberty is sought to produce a copy of a plan at the time of hearing if found necessary. A copy of forwarding letter along with list of compensation paid to farmers is annexed as **Exhibit R-2**.

14. A further inspection was carried out prior to the monsoons on 07/05/2007 and 17/05/2007. The inspection carried out on 07/05/2007 showed that protective measures are underway and consisted of mud embankment, parapet walls and one settling pond. Certain instructions were issued to the lessee and a detailed inspection was thereafter carried out on 17/05/2007. After taking stock of protective measures taken and as detailed in the inspection report, it was observed that the measures seem to be satisfactory. The lessee was also instructed and

advised to take certain further measures. A copy of the said inspection report was annexed as **Exhibit R-3**.

15. I say that a complaint was made before the S.D.M, Quepem by number of Villagers including the Petitioner No. 1. I do not have copy of this complaint. However, the office of Dy. Collector had issued a letter in that regard and had directed to remain present for a meeting fixed on 13/10/2007. I say that at the said meeting my Department was represented by Shri Hector Fernandes, Assistant Geologist. Minutes of the said meeting had been submited by Dy. Collector vide his letter dated 14/10/2007. A few observation from the said minutes are extracted below;

A) "The Executive Engineer Mr. Ranga Raju who is also Canal Officer attached to the Water Resources Department was present and he placed on record the series of reports which he has made from time to time along with photographical evidence of the nallha. The said correspondence and measures suggested by the Canal Officer are placed on record of the file. According to the Canal Officer the average depth of the nallha is 2 mts. He submitted that only when the nallha is completely filled with silt, than and only than it would start overflowing and accumulating in the properties. He stated that due to precautionary measures adopted by the mining firm, the silt accumulate in the nallha is less for which measures could be taken for desiltation. He also

submited that the various barriers put across by the mining firm arrest the sludge/run/off to a great extent. Further according to the Zonal Agricultural Officer Shri Babal S. Prabhu he stated that the only if the nallha is completely filled of than only the damage would start accruing in the paddy fields. He also pointed out to his report submitted to the Collector in April 2007, whereby he has highlighted the ill effects that would plague the Agricultural sector in the years to come."

B) "On the personal visit and the inspection of the mining area on 09/10/2007 the SDM had collected soil samples for testing from two different sites that is one from the area which was alleged to have deposits of mining silt and the other from the area which was not set to be affected with mining silts. The soil testing was carried out by the South Goa Branch of Agricultural Department and the reports which arrived today disclosed that both the soils had similar readings, which means to say that the fertility count of the soil has not been disturbed. The report too was tabled today for scrutiny before the meeting. So also the personal inspection of the nallha did not show the SDM the presence of alluvial deposits from the mine."

C) "The core issue being that of deposit in the nallha and damage to the agricultural lands has been properly answered by the Canal Officer and the report of the soil testing by the Agricultural Department."

Annexed as **Exhibit R-4** is the copy of the Minutes of the Meeting.

16. I say that steps as indicated above are taken to ensure that there is no siltation on account of runoff water. I say that before the coming monsoon, inspection will be held to see if all protective measures are in place and suggest further protective remedial measures.

17. On the allegation that there is mining activity carried out in the area demarcated as private forest, I say that there is no substance in the same. I say that the mining lease covers the following Survey Numbers.

Survey No. 41 (P)

Survey No. 43 (P)

Survey No. 44 (P)

Survey No. 45 (P)

Survey No. 46 (P)

Survey No. 54 (P)

Survey No. 55

Survey No. 56

Survey No. 57 (P)

Survey No. 58 (P)

Survey No. 59 (P)

Survey No. 67 (P)

Survey No. 68 (P)

Survey No. 69

Survey No. 70

A plan showing the leased area viz-a-viz the survey numbers of properties is annexed as **Exhibit R-5**.

18. I say that the Sawant Committee has identified properties surveyed under Survey No. 57(P) and 68 (P) as private forests. Though the Petitioner contends that property surveyed under no. 69 is also identified as forest, the same is not correct. Karapurkar Committee has not identified any of the Survey numbers comprising within the mining lease as private forest. The combined effect of Sawant and Karapurkar Committee is that survey no. 57 (P) and survey no. 68(P) have been identified as private forests. Pursuant to order passed by this Hon'ble Court in Writ Petition No. 286/2003, the Forest Department has undertaken demarcation of the forest area from non forest area in property identified as private forest in both the said reports. So far as property surveyed under No. 57(P) and 68 (P), the Forest Department has already carried out demarcation and demarcated the private forest within said survey number.

19. I say that the joint inspection was carried out along with officials of Forest Department in order to find out extent of demarcated private forest and within survey no. 57 (P) and 68 (P) so as to ascertain as to whether any mining activities are being carried out within such demarcated forest areas.

20. I say that the entire survey no. 68(P) within the leased area has been demarcated as private forest. I further say that the

demarcated private forest within survey no. 57 (P) is on the eastern boundary of survey no. 57 (P) within the leased area and beyond the nullah. I am annexing the same plan annexed as **Exhibit R-5** but showing the demarcated private forests. The same is marked as **Exhibit R-6**. I am also relying upon the surface plan of the lessee on which the boundary pillars marked on the site in yellow colour have been plotted thus showing the extent of private forest. The same is annexed as **Exhibit R-7**.

21. I say that the mining activities are being carried out in property Surveyed under Survey No. 57 (P) in the area identified as non forest area and in property surveyed under survey no. 58 (P) and the stacking yard and the rejection dumps are located in properties surveyed under survey nos. 58 (P), 57 (P) (in area identified as non forest area) and 69.

22. I say that no mining activity is carried out by Respondent no. 11 in the area identified and demarcated as private forest i. e. in the entire survey no.68 (P) and in the area identified as private forest in survey no. 57 (P).

23. I submit that Respondent no.11 has been carrying out mining activities with due permissions as required under Law. I further say that steps are taken and being taken to ensure that there is no ~~the~~siltation of the nallha. Further there is no mining activity carried out in areas identified as private forests within the leased area.

I say what is stated by me in paras 1,3-22 of the above Reply are as per the records available in the Office and what is stated in the remaining paragraphs are in the nature of legal submission.

Solemnly affirmed at Panaji, Goa

On this 24th day of March, 2008

(DEPONENT)

Identified by me: -

Rlodanka

(Rakhi M. Chodankar)

137

EX-K-1

INSPECTION REPORT

On 20/03/07 the undersigned Shri Hector Fernandes and Shri Jayant Sirsat, both Assistant Geologists inspected the mining lease named 'Gogoro ou Gulcan dongor bearing T.C. No. 6/49 of Shri Hiralal Khodidas in Colomba village of Sanguem taluka.

This inspection was taken on priority basis on the instruction given by Shri A.T D'Souza, Senior Geologist on 16th March, 2007 in the presence of Shri Sushant Naik, Shri Rama Velip and four others who called on the office at the concluding part of the day and vociferously demanded closure of the above mine as being illegal, creating damage to their properties and due to blasting and informed that their complaints are pending unattended in this office and other offices. Accordingly the undersigned reported at the site around 11.15 am. within the time fixed for inspection and we found none of the above aggrieved complainants were present at the site. We also called up at the house of one Shri Velip who had complained about damage to his house due to blasting and was informed that he has gone to Margao.

We also called Shri Rama Velip telephonically and also sent a local person to call him for the inspection. Since Shri Rama Velip and others failed to appear, we conducted an ex-parte inspection of the said mine in the presence of the representatives of the lessee, Shri Ramani, Senior Mines Manager, Shri Atul Makode, Mines Manager and Shri G. Karkare who represented the contractors M/s. Infrastructure Logistics Pvt. Ltd.

It may be stated at the outset that the lease was earlier worked for manganese ore and there is an existing manganese pit. Manganese working has been suspended since the beginning of the season i.e. September, 2006. Presently, a new site has been started to mine iron ore.

The representative of the lessee informed that mining activities were commenced with Puja was held on 24/10/06. They further informed that out of 70 Ha. of the lease, 15 Ha. is under manganese deposit and the remaining 55 Ha. is iron ore bearing.

At the time of the inspection the iron ore mine was under active operation with the help of following machinery:

Excavators Ex 200	2 Nos.
Rippers active	2 Nos.
Ripper stand by	1. No.
Wheel loader	1 No.
Water tanker	1 No.

Transport trucks/dumpers around 15 to 20 are reported on any working day.

Presently excavation work is going on and approximately 300 mts. X 100 mts. of an area has been opened up and maximum depth excavated so far is 12 meters and maximum depth programmed by the end of the season is 18 meters. The excavated area being in the slope of a hillock, there are 2 benches on one side and third bench in under formation.

A total of approximately 3500 tonnes is handled per day. The excavation is still at development stage where maximum handling consists of rejection and minor amount of sub – grade ore of about 48 to 50 % Fe both these are stacked separately.

A weigh bridge is under installation within lease area.

As regards precautionary measures, the lessee is in the process of constructing double walls of boulders parallel to each other over a length of 600 meters each, height 1.2 meters and width 0.2 meters, which would be completed before the monsoon.

Mine working will be closed down for the monsoons.

The lessee's representative also informed that all the cultivators/ farmers of the rice fields whether cultivated or not cultivated and whether likely to be damaged or not downslope of the mine have already been compensated in advance. An advance compensation is reported to have been paid to a tune of Rs. 34 lakhs to 33 farmers to cover the period of next 5 years and for the subsequent 5 year period, the same will be paid with 10% increase of the principal amount. The list of beneficiaries of compensation as given by the above representatives of lessee is given below:

Sr. No.	Party Names whom Compensation Paid
1.	Shri Simao Antao
2.	Shri Joaquim Fernandes
3.	Avelina Antao
4.	Maliano Fernandes
5.	Devidas Bhiva Velip
6.	Vithoba Pawato Gaonkar
7.	Bhick Babi Naik
8.	Mannual Souza
9.	Jiva Gaonkar
10.	Magdalina Fernandes
11.	Shirpanto Kali Velip
12.	Gopal Mukund Naik
13.	Devu K. Velip

14.	Babi Nilu Amonkar
15.	Krishna Kalu Naik
16.	Quistodia Souza
17.	Ulhas Laxman Raikar
18.	Kushali Rama Gaonkar
19.	Dhavlu Rama Gaonkar
20.	Kushali Pusto Velip
21.	Tulsidas Anant Naik
22.	Raya Anant Naik
23.	Kalidas Purso Gaonkar
24.	Chandrakant Rama Gaonkar
25.	Malrino Antao
26.	Sebastiao Dias
27.	Mahadev Bhiva Velip
28.	Janu Naik
29.	Baban Mukund Naik
30.	Mahadev Sonu Gaonkar
31.	Shirpanto panto Gaonkar
32.	Harichandra Bhiva Velip
33.	Sebastiao Jose Simoes

The representatives when questioned about the blasting, informed that they carried out a trial blasting towards the end of November, 2005. It was nonel blasting duly monitored for ground vibration and that they can submit the details monitored during the same. Thereafter, no blasting was carried out. At the time of inspection no drills holes were found at site and there was no compressor cum drilling machine at the site.

The mining lease is having an approved Mining Plan, as approved mining scheme and the progressive mine closure plan. They also informed that Environmental Clearance has been recently granted by the MOEF and the land under mining is non – forest private land.

Recommendations; The Mines Manager was given following verbal recommendations:

1. To construct a mud embankment with boulder pitching on the outsider along the lower slopes of the working pit to contain all monsoon surface runoff.
2. To submit a plan/map of the area showing the mining lease boundary, the area compensated in advance for likely damage, area covered by the lessee the working pit and the proposed environmental protective measures.

Hfernandes 4/4/07

Hector Fernandes,
Assistant Geologist

Panaji
Dated 27/03/07

(Jayant Sirsat)
Assistant Geologist

EXh- R-2 140
34/C

Hiralal Kodidas

MINE OWNER
CURCHOREM, GOA-403706

Date: 24/03/07

To,
The Director of Mines & Geology,
Panjim
Goa.

Director of Mines & Geology,
87
Date 3/4/07
Signature
AG(F) 4

Kind Attn : Mr. Hector Fernandes / Mr Sirsat

Sub: With Reference to your Inspection dated 20/03/07 at our Gogoru –ou-gulcon Dongar mine (T.C.No-6/49)

Dear Sir,
With Reference to your Inspection Dated 20/03/07 at our Gogoru-ou Gulcon Dongar mine(TC .NO-6/49) situated at colomba village , We hereby enclosing the following Documents for your Kind references.
1.List of Compensation paid to the Farmers.
2.Surface Plan showing Area owned ,Area compensated,& Environmental Protective works

Hope you will find in order

Thanking You

Yours Faithfully,

Atul V Makode,
Mines Manager,
Gogru-ou-gulcan Dondar Mine

Discussion file.
AG(F)

Encl:a/a

GOGORU-OU-GULCAN DONGAR MINE
OF
HIRALAL KODIDAS
COLOMBA

LIST OF COMPENSATION PAID TO FARMERS

Sr.	Party to whom compensation to be paid	Amount of compensation agreed to be paid (Rs.) from 1st January 2007 to 31st December 2011 .	Cheque No.	Cheque Date
1.	Simao Antao	58695	456123	27/02/07
2.	Joaquim Fernandes	78960	456124	27/02/07
3.	Avelino Antao	114595	456125	27/02/07
4.	Mariano Fernandes	178885	456126	27/02/07
5.	Devidas Bhiva Velip	167700	456127	27/02/07
6.	Vithoba Pawato Goankar	80355	456128	27/02/07
7.	Bhick Babi Velip	48920	456129	27/02/07
8.	Manual Souza	75465	456130	27/02/07
9	Jiva Goankar	29345	456131	27/02/07
10.	Magdalina Fernandes	234780	456132	27/02/07
11	Shirputo Katu Velip	90840	456133	27/02/07
12	Gopal Mukund Naik	246660	456134	27/02/07
13	Devki K Velip	107610	456135	27/02/07
14	Babi Nilu Amolkar	211720	456136	27/02/07
15	Krishna Kalu Goankar	137660	456137	27/02/07
16	Quistodio Souza	86645	456138	27/02/07
17	Ulhas Laxman Raikar	51710	456139	27/02/07

142

32/C

18	Kushali Rama Goankar	8385	456140	27/02/07
19	Dhavlu Ram Goankar	33540	456141	27/02/07
20	Kushali Pusto Goankar	58695	456142	27/02/07
21	Tulsidas Anant Naik	20265	456143	27/02/07
22.	Raya Anant Naik	20265	456145	27/02/07
23	Kalidas Purso Goankar	36335	456146	27/02/07
24	Chandrakant Rama Goankar	80360	456147	27/02/07
25	Matrino Antao	64285	456148	27/02/07
26	Sebastiao Dias	181675	456149	27/02/07
27	Mahadev Bhiva Velip	91535	456150	27/02/07
28	Janu Naik	48215	456151	27/02/07
29	Baban Mukund Naik	48915	456152	27/02/07
30.	Mahadev Sonu Naik	48215	456153	27/02/07
31	Shirputo Pauto Goankar	127175	456154	27/02/07
32	Harichandra Bhiva Velip	169795	456155	27/02/07
33	Sebastiao Juse Simoes	424840	456156	27/02/07

143 EXH-R-3 95/c

INSPECTION REPORT

The Mining lease named Gogoro ou Gulcan dongor in Colomba Village of Sanguem taluka granted to Shri Hiralal Khodidas over an area of 70.1870 Ha by T.C. No. 6 dated 11/7/1949 was inspected by the undersigned, Shri Hector Fernandes, Assistant Geologist and Shri Robert Gonsalves on 7/5/07 and again on 17/5/2007 and the details are as under:-

On 7/5/2007 a rapid inspection was conducted in the presence of Shri P.T. Naidu, Dy. Supt. of Mines of the lessee.

The inspection of the protective measures revealed that the measures are under way and consisted of mud embankments, boulder parapet walls and one settling pond.

Shri Naidu was instructed to have two more settling ponds and install two graduated poles in two settling ponds to monitor the accumulation of silt.

The protective measures below the working pit were inspected and Shri Naidu was instructed to convert the boulder parapet wall as settling area for monsoon runoff water by pitching the inner side of the boulder parapet wall with murrum /lateritic soils.

He was also instructed to dig a pit of dimensions 1x1x1 cubic meters in the bed of the water course outside the parapet wall to monitor the silt settlement during monsoons.

The mining lease was again inspected in detail on 17/5/2007 by advance intimation by letter No.32/60/07-Mines/426 dated 14/3/07. The inspection was conducted in the presence of Shri Atul Makode, Mines Manager and Shri P.T. Naidu, Dy. Supt. of Mines.

The inspection proceeded as per the questionnaire contained in the aforesaid letter of 14/5/07.

The details are as under:

1) **Approved mining plan and scheme of mining:** The lessee has approved mining plan and scheme of mining. Besides the lessee has also obtained Environmental Clearance.

2) **Updated surface plan showing the existing features:** The lessee submitted Surface Plan of the mine dated 1/10/06. The representatives of the lessee informed that they are in the process of updating the Mine Surface Plan and the same will be completed by May end and agreed to submit a copy of the same. They also submitted a copy of the lease plan superimposed on the revenue survey numbers in the scale of 1:10,000.

3) **Records of production of mining waste, subgrade minerals and ROM:** The lessee produced two registers wherein they are recording the production of ore and of rejection. The details are summarized as under:-The figures are in metric tonnes.

MONTH	TOTAL HANDLING	REJECTION	ORE (ROM)
From Oct. 27th 2006	1848	1848	NIL
Nov 2006	5216	5216	NIL
Dec 2006	29040	29040	NIL
Jan 2007	39984	37584	2400(46.9-52.7%Fe subgrade)
Feb 2007	92184	26016	26016(50-52%Fe subgrade)
Mar 2007	121392	78656	42736 (52% Fe Subgrade)
April 2007	123528	64584	58944 (+55% Fe Subgrade)
May 2007. as on 15/5/07	61293	27204	34089 (+58% Fe Subgrade)

4) **Records of processed ore:** The Ore is stacked as ROM at the site. Not transported nor processed.

5) **Records of sale / export together with invoices:** Ore has not been sold or exported.

6) **Analysis reports:** Chemist analysis reports are maintained.

7) **Transport Slip:** Ore not transported.

8) **Register showing stocks available at mine site, beneficiation plant, loading point and Mormugao harbour:** Register of Ore stock at the mine site maintained.

9) **Records of plantation / afforestation:** No plantation has been started as the iron ore pit commenced from 27/10/06.

10) **Air, water quality monitoring data:** The Monitoring of air and water quality is being done by a Consultant and the report will be ready by beginning of June, 2007.

11) **Dump management:** Dump management details are given below

12) **Compensation paid to affected parties, if any:** As regards compensation paid to the affected parties the same was submitted to this office by the lessee by letter date 24/3/07.

13) **Royalty challans:** So far the lessee has not paid any royalty.

14) **Lease plan superimposed on cadastral survey plan along with Records of Rights in Form I & XIV:** The lease plan in the scale of 1:10,000 superimposed on revenue survey plan and records of rights in Form I & XIV was submitted and enclosed to this report.

15) **Employment register:** Employment Register in Form B and D under respective Regulations are maintained:

1) Total employees -22
2) Truck drivers -24

The mine was in operation at the time of the inspection. The present pit length is 200 meters, width 150 meters and height is calculated as follows: pit bottom is at 68 meters R.L., up-slope side 94 meters R L and down-slope side is 74 meters R. L. Therefore the up-slope side height is 26 meters and the in situ barrier on the down slope side is 6 meters height. This down-slope in situ barrier is 5 meters wide at the top and about 10 meters at the base.

Following machinery was employed in the pit:

1) L & T Komatsu shovel – 1 no. of 0.9 meters capacity
2) Hitachi shovel _ 1 no. of 0.9 meters capacity
3) Ripper dozers -3 nos. _ 2 of D 9 H and 1 of D 8 K
4) Wheel loader -1

The ROM and the rejection from the working pit is stacked separately on the up-slope side of the pit. The pit is being worked to even up the pit bottom and the monsoon runoff from the ore stack and the dump facing the pit is proposed to be diverted to accumulate in the pit.

Below the pit on its lower slope a mud embankment is constructed to cover the whole pit length. At two places pipe arrangement has been made for over flow of water. Undersigned instructed not to install more overflow pipes but instead to prepare boulder pitched overflow beds to soften the overflow water effect.

On the lower side of the mud embankment is the Service Road and by its lower side runs the boulder parapet wall. The instruction to pitch the parapet wall with murrum or laterite soils on the inner side by about a meter has not been carried out as the directions for pitching it were not understood. They were, therefore, demonstrated the importance of pitching the boulder parapet wall on the inner side so that the muddy water is stopped from passing through the boulder wall and the same is accumulated and is allowed to percolate in the ground.

On a long term bases, the Service Road should be raised in height by about two meters which would act as a bund or dam.

The main mine road leading from the Mine Office to the mine requires a speed breaker high enough to divert the monsoon run off from free flowing into the stream below.

Thereafter the measures taken to protect the dump on the outer side were inspected. These measures that has been undertaken are enumerated below:

1) Immediately at the toe of the dump is a set of two earthern embankment of length 100 meters and second one of 150 meters+50 meters boulder parapet wall.

2) A middle embankment of length 114 meters.
3) An outer embankment of about 200 meters in length.
4) In between the middle and outer embankment is a set of 3 boulder parapet walls with three settling ponds.

These embankments are about a meter to a meter and a half in height.
Between these parapet walls are 3 settling pits of dimensions.

1) 45x 15x1.5 cubes meters
2) 25x 8.5x1.5 cubes meters
3) 23x8.5x1.5 cubes meters.

As instructed during the inspection of 7/5/2007, two graduated poles have been set up in the bed of two settling ponds which will help to monitor the level of accumulated silt.

These measures seems to be satisfactory.

The seasonal nallah which drain the upper hill area and the area under the dumps in its natural course has cut deep in the ground with vertical cuttings of about five meters. Some scree rolling down in the nallah near the manganese pit at two places was observed. As a protective measure covering these two sites with silpauline has been advised. Also, a drain on the inner side of the road leading to the manganese pit was instructed to be completed before the onset of the monsoons.

At the meeting held by Chief Secretary on 23/05/2007 and attended by Director of Mines & Geology, Senoir Geologist, Assistant Geologist (South) Chief Conservator of Forests, Deputy Conservator of Forests (Margao) Chief Engineer, and other Officers of WRD it was decided that a team from WRD headed by Shri Salelkar and Shri Hector Fernandes, Assistant Geologist from Directorate of Mines & Geology should conduct a joint inspection to assess the pre monsoon measures undertaken by the lessee and verify that they have been completed.

23/5/07
Robert Gonsalves,
Draughtman Grade – I

Fernandes
23/5/07
Hector Fernandes,
Assistant Geologist

148 Exh-R 4

No.SDO/QPM/MAG/192/07 /3193
Office of the Deputy Collector &
Sub-Divisional Officer,
Quepem – Goa.

Dated: 14.10.2007

To,
1) The Director,
Directorate of Mines & Geoloogy,
Panaji – Goa
2) The Executive Engineer & Canal Officer,
WRD Gogal,
Margao – Goa
3) The Asstt. Engineer,
WRD Gogal,
Margao – Goa
4) The Zonal Agricultural Officer,
Zonal Agricultural Office,
Sanguem – Goa

Direct... Geology,
... 5590 ... ...
... 17/10/07 .....
Signature .....

STA AG (F)

Sub : Copy of minutes of meeting held on 13/10/2007

Sir,

Please find enclosed herewith copy of minutes drawn in respect of the meeting convened by the undersigned on 13/10/2007 in repect of the law & order problems created by the villgersof Colomba Rivona

You are required to kindly take necessary steps in the formation of the committee on lines of PPP (Public Private Participation)

Thanking you,

Yours sincerely,
14/10/07
(Johnson Rody Fernandes)
Deputy Collector and S.D.O.,
Quepem-Goa.

C.C to
1) The Collector of South Goa District, Margao – Goa
2) The Additional Collector – I, South Goa District, Margao Goa with a request to kindly form the committee as postulated in the methodology part of the minutes drawn enclosed herein

MINUTES OF THE MEETING CONVENSED BY THE SUB DIVISIONAL MAGISTRATE OF QUEPEM SUB-DIVISION QUEPEM GAO ON 13/10/2007 TO TAKE STOCK OF THE LAW & ORDER PROBLEM PERTANING TO OPERATION OF MINE BY HIRALAL KHODIDS & COMPANY PRESENTLY OPERATED BY FOMENTO MINING GROUP

The following members were for the meeting

1. Shri Parag Nagarsekar, Mamlatdar of Sanguem.
2. Shri Sudin Natu, Mamlatdar of Quepem
3. Shri Hector Fernandes, Asstt. Geologist, Director of Mines & Geology, Panaji
4. Shri H.M. Rangaraju, Exe. Engineer, W.R.D.
5. Shri Paily P., A.E. WRD Sanguem
6. Shri B.S. Prabhu, ZAO Sanguem
7. Shri P.B. Shirwoikar, PI Quepem Police Station
8. Shri Gajanan Harihar Karkare, Sr.Manager
9. Shri Atul V. Makode, Mines Manager
10. Shri P.T.Naidu
11. Shri Vijay D Kerkar
12. Shri Gokuldas K Naik
13. Shri Sandeep Gaonkar
14. Shri V.K. Prabhu Dessai
15. Shri Rama L. Velip
16. Shri Egypt D'Souza
17. Shri Telu Dias
18. Shri Rajanikant Velip
19. Shri Ramchandra Velip
20. Shri Sebastiao D'Souza
21. Shri Ajay N. Naik
22. Shri Gaurish Naik

At the outset the SDM Quepem welcomed the gathering & disclosed that the meeting was convened inorder to tackle the law and order problem which has been constantly taking place at the site of the operation of mine by Hiralal Khodidas & Company which is presently operated by Fomento Mining Group. The main issue which the villagers were concerned of is about adjoining nallah which is passing on the periphery of the mining activity & secondly about the run-offs of the mines getting accumulated in the adjoining agricultural lands.

Contd 2

The villager named Rama Ladu Velip addressed to say that the siudge of the mines is affecting the paddy fields and the lands which are being cultivated by the Schedule Tribes is getting destroyed due to the silt. The land which is classified as forest land is also being surreptitiously utilised for mining activity & the forest resource is getting depleted day by day, Shri Rama further pointed out that the vibration caused due to the rippers, has developed cracks to the households of the inhabitants who reside in the vicinity of the mining area and that the water table of the land has been substantially reduced.

Shri Venkatesh Keshav Prabhu Dessai, another villager pointed out to say that the agricultural lands in the vicinity of the mining area are giving a double yield-kharif & Rabi type due to the availability of water source from the nallah. He also stated that the plateau used for mining acts as a reservoir for harvesting water during monsoons due to it's capillary action and that the continuance of mines would put to knaught the perenial source of water which is used for agricultural operations. He further stated that protective measures taken by the mining company serve no purpose and that the operation of the mines be stopped.

Shri Salvador Dias a villager submitted that the Government is encouraging and boosting agricultural activity by giving various types of subsides, but on account of the operation of the mines the doles dished out by the Government would serve no purpose. He also stated that there would be no grazing ground left or available for the cattle and prayed that the mines be stopped from conducting any of its operation.

Contd...3

Shri Hector Fernandes was representing the Director of Mines & Geology. He stated that the mining concession was in existence since 1949 by the virtue of Title of Concession No.6 for Iron and Magnese. The activities were going on manually for extracting Magnese ore and since the past 18 months the activity has started full swing by usage of heavy earth moving machinery. The Mining Act is Central Act and the entire activity is controlled by the Central Government and the monitoring aspect is done by the Directorate Of Mines is what Mr. Hector had to say. The approvals for the operating of the mine have been given by the Indian Bureau of Mines after studying the mining plan which is accompained by the study of Environment Impact Assessment. The concers of environment are also looked after and taken care of by the IBM. The environmental clearance for the present mine was given by the Ministry of Enviroment and Forests on 12/3/2007 and is valid till date. Mr. Fernandes also stated that the area of lease given to the mine is 70,1870 sq.mts and he feigned ignorance if any part of the said land of mining concession has been identified as private forest. The usage of machinery on the mines is also subject to the Mines Safety Act is what Mr. Hector had to say.

The Executive Engineer Mr. Ranga Raju who is also a Canal Officer attached to the Water Resources Department was present and he placed on record the series of reports which he has made from time to time alongwith photographical evidence of the nallah. The said correspondence and measures suggested by the Canal Officer are placed on records of the file. According to the Canal Officer the average depth of the nallah is 2mts.He submitted that only when the nallah is completely filled with silt, than and only than it would start overflowing and accumulating in the

Contd..4

properties. He stated that due to precautionary measures adopted by the mining firm, the silt accumulated in the nallah is less for which measures could be taken for desiltation. He also submitted that the various barriers put across by the mining firm arrest the sludge/run-offs to a great extent.] A

B [According to the Zonal Agricultural Officer Shri Babal S.Prabhu, he stated that the only if the nallah is completely filled up than only the damage would start accruing in the paddy fields. He also pointed out to his report submitted to the Collector in April 2007, whereby he has highlighted the ill effects that would plague the agricultural sector in the years to come.] B

The representative of the mining company i.e. the Senior Manager Mines Shri Gajanan Karkare submitted that all precautionary measures have been adhered to by the firm as perthe directions given by the Chief Secretary of Goa. He also submitted that the mining company is always open for suggestions which are constructive in nature and that the activities carried out are legal in nature.

Adv. Hemkant Bhangui, pointed out to say that out of entire village only a handful villagers were opposed towards the project and a majority of them are for it. He stated to say that the nallah is clear from all respect and that the activity cannot be halted inspite of havingvalid legal permissions. He also stressed on the report of EIA which was banked upon by the Indian Bureau of Mines whilst granting the permission. He also pointed out to say that when the mining concession has not be challenged since the past more than 5 decades, the question of stopping any activity of mining does not arise.

Contd....5

Some truck owners from the locality namely Shri Suryakant Naik and Shashikant Devidas submitted that the activity should be permitted for employment and for doing ancillary business activities connected with mining.

A person named Arun Vijay Madgaonkar who is a resident of Marcel Khandola under the banner of Gram Vikas Kendra spoke on the ill-effects of mining activities ranging from the issue of water depletion to overloading of trucks. He also stated that the mining companies have not adhered to the norms laid down to re-do the earth and bring it back to its original position by plantation of trees. He also raised apprehensions and concern for the village of Rivona Colomba and surrounding areas by bringing it to the fore that some two more mining companies are likely to surface is the locality, which according to him would add more misery than any good to the local populace.

Another person by name of Shri Narayan Colambkar stated that the road which is presently used by the mining firm is his personal private land and he stated that the road cannot be put to use for mining operations.

BRIEF ANALYSIS

After hearing all the parties present i.e. the various agencies of the Government, the agitators and the representatives of the mining firm, it has been made crystal clear to one and all, that the jurisdictional limits of the SDM are miniscule and that it is not clothed with powers to order stoppage of the mining activity considering the valid permissions which the mining firm has with them. Although the agitators have raised a acloud of suspicion in their minds about the grant of permissions, as an SDM, the office cannot go into the merits of each and every permission granted to the firm.

Contd.....6

All what the SDM would want is maintenance of peace and tranquility in the society and if there is any contravention on this count, than the SDM would have to step in and take adequate measures to maintain the peace and tranquility. On the personal visit and inspection of the mining area on 9/10/2007 the SDM had collected soil samples for testing from two different sites i.e. one from the area which was alleged to have deposits of mining silt and the other from the area which was not said to be affected with mining silts. The soil testing was carried out by the South Goa Branch of Agriculture Department and the reportswhich arrived today disclosed that both the soils had similar readings, which means to say that the fertility count of the soil has not been disturbed. The report too was tabled today for scrutiny before the meeting. So also the personal inspection of the nallah did not show the SDM the presence of alluvial deposits from the mines.

The core issue being that of deposits in the nallah and damage to agricultural lands has been properly answered by the Canal Officer and the report of soil testing by the Agricultural Department.

As regards the issue of road,although a hue and cry has been raised by the alleged property owner, this office opines that for all purposes the said road has to be treated as a public road. The road is pucca in nature and perhaps the PWD or the local authority must have tarred the same. Considering the fact of monies being pumped in for construction of the road from the excheque, preferential right of use of the road would obviously be for the public and hence it is deemed to be considered as public road. However, if Shri Colombkar has a better title over the said road which leads to the mines, he is at liberty to knock the doors of the forum having Civil jurisdiction. Preventing usage of the said road by using

Contd....7

muscle power or by illegally blocking the same through other means is not a healthy sign and no law of the land would permit any person to do such an act.

METHODOLOGY TO ADOPT PREVENTIVE MEASURES TO CURB ENVIRONMENTAL DEGRADATION

Degradation of environment espicially due to mining has been an issue which has from time to time being raised before various for a including the Honourable High Court and Honourable Supreme Court. On every given occassion it has been a practise to issue directives to prevent environmental degradation as mining reserves cannot be stopped from being explored and exploited as is is a part and parcel of national wealth

Public Private Participation (PPP) is the need of the hour to bring about transparancy in the sdoption of preventive measures to curb environmental degradation. This proposal was put forth to the public which has been readily accepted, The Committee members shall visit the mining area every month and suggest measures from time to time. The committee should chalk out its own programme of field visit preferably in the first week of the every month and within the first ten days of every month should submit a report to the Mining firm and the Collector (S) with a copy endorsed to the SDM of the Sub Division of Quepem. The mining firm should than adopt the preventive measures in the same month itself and when the Committee members pay their field visit in the ensuing month they should assess the measures so adopted by the firm.

In the set up of PPP the degradation of environment which is at its optimum would get reduced to great extent and finally there would a day

Contd..8

where there would be zero tolerance to environmental degradation.

At any given time, if there are any deposits in the nallah the mining company should bear the total cost of desiltation by taking the techanical know-how from the Canal Officer.

The run-offs from the mine in the agricultural properties could also be properly channelised through the tailing ponds by way of which the paddy fields would not get destroyed.

The committee should comprise of three villagers the names of which has to be duly vetted by the Village Panchayat of Rivona, the Mines Manager & Mining Engineer, Officials from each department i.e. The Zonal Asgricultural Office, Forest Department, Directorate of Mines and Canal Officer from WRD.

CONCLUSION

Under the above premises which has been espoused in the methodology part, the SDM called upon the parties present to maintain peace , tranqtility and decorum and if need be to knock the doors of the appropriate forum to stop the operation of the mines, if they are insisting on the same. The SDM also called upon the gathering that the mines would start operating from 15/10/2007 and if there is any law and order problems than action would be initiated against them as per the law in force. The meeting thereafter ended with these directives.

13/10/07

(Johnson Bedy Fernandes)
Deputy Collector & S.D.M.,
Quepem – Goa.

C.C. for information to:
1. The Collector and District Magistrate (S), Margao-Goa, with a request to kindly initiate steps to form a core committee as espoused in the methodology part of the minutes drawn and forwarded herein

(60

IN THE HIGH COURT OF BOMBAY AT GOA

Writ Petition No. /2008

Shri Rama Velip and Ors. .... Petitioners

V/s

State of Goa and Ors. .... Respondents

AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENT NO.

I, M. K. Bidi, major of age, Indian National, having my office at Margao, Goa, do hereby on solemn affirmation state and submit as under: -

1. I am presently posted as Dy. Conservator of Forest, Forest Department, Government of Goa. I have read the contents of the petition and its annexure and I have understood the same. I am filing this affidavit for the limited purpose of opposing admission of the present petition and grant of interim relief. I crave leave to file detailed affidavit in case this Honourable Court issues Rule in the present petition. I say that I am not dealing with each and every averment in the petition at this stage and I should not be deemed to have admitted any of the allegations, which are not specifically dealt with in the present petition. I deny each and every allegation of the Petitioner, which is inconsistent with and contrary to whatever stated by me hereinafter.

2. I am filling this affidavit for the limited purpose of replying to the allegations of the Petitioners that the mining activities are being carried out in violation of the Forest Conservation Act, 1980 and the Order of this Hon'ble Court and Supreme Court.

3. Petitioner in para 11 has stated that the mining lease includes survey numbers 42-46, 54-59, and 67-70 of Colombo Village out of which Survey No. 57,68 and 69 are identified as private forest.

4. I say that the Sawant Committee has identified properties surveyed under Survey No. 57(P) and 68 (P) as private forests. Though the Petitioner contends that property surveyed under no. 69 is also identified as forest, the same is not correct. Karapurkar Committee has not identified any of the Survey numbers comprising within the mining lease as private forest. The combined effect of Sawant and Karapurkar Committee is that survey no. 57 (P) and survey no. 68 (P) within leased mining area have been identified as private forests. Pursuant to order passed by this Hon'ble Court in Writ Petition No. 286/2003, the Forest Department has undertaken demarcation of the forest area from non forest area in property identified as private forest in both the said reports. So far as property surveyed under No. 57(P) and 68 (P), the Forest Department has already carried out demarcation and demarcated the private forest within said survey number.

5. I say that the joint inspection was carried out along with officials of Mines Department in order to point out the extent of demarcated private forest within survey no. 57 (P) and 68 (P) so as to ascertain as to whether any mining activities are being carried out within such demarcated forest areas.

6. I say that the entire survey no. 68(P) within the leased area has been demarcated as private forest. I further say that the demarcated private forest within survey no. 57 (P) is on the eastern boundary of survey no. 57 (P) within the leased area and beyond the nullah. On the surface plan of the Respondent no. 11, the boundary stones put up for demarcation were then plotted.

7. I say that no mining activity is carried out by Respondent no. 11 in the area identified and demarcated as private forest i. e. in the entire survey no. 68 (P) and in the area identified as private forest in survey no. 57 (P).

8. With reference to para 16, I say that the lessee i. e. Respondent no. 11 has since applied for permission to use the existing road though Government forest and the lessee has been permitted to use the said road on certain conditions. A copy of the permission is annexed as **Exhibit R-1**.

9. I say that the Petitioner has referred to certain offenses registered by this Department on account of illegal felling of trees. I say that the following are the details of the offenses.

"1. No. 8/RFO/KD/2006-07 dtd. 5/2/2007 for illegal felling of 17 no. of trees from private area, Sy. No. 69 and 59 of Colomba Village.

2. No. 7/RFO/KD/2006-07 dt.8/2/2007 for felling of 7 trees from private property under Sy. No. 69 of Colomba.

3. No. 7/RFO/KD2007-08 dt.10/5/2007 for felling up of 32 nos. of trees by Ripper dozer machine from private area Sy. No. 58.

4. No. 5/RFO/KD/200-08 dt.8/5/2007 for dumping rejection in private forest area Sy. No. 71 in open area, Colomba Village.

5. No. 8/RFO/KD/2007-08/ dt.10/5/2007 for illegal working manually in private forest area Sy. 71 (Part) and illegally felling of 9 trees.

10. I say that the cutting of trees has been carried out in survey nos. 69, 59 and 58 which are within the leased area for the purpose of mining. All the 3 properties are not private forest lands and the offences are registered under the Preservation of Trees Act. 2 offenses are in respect of dumping some heaps of rejection in survey no. 71(P) and illegally felling trees. Survey No. 71 is not part of the leased area. Here also offenses are registered for violating the provisions of Preservation of Trees Act.

I say what is stated by me in paras of the above Reply are as per the records available in the Office and what is stated in the remaining paragraphs are in the nature of legal submission.

Solemnly affirmed at Panaji, Goa
On this 24th day of March, 2008

(DEPONENT)

Identified by me: -

Office of the Chief Conservator of Forests,
Maratha Samaj Building,
Vivekanand Road, Panaji.
Goa – 403 001

No. – 6 – 13(174) – 97 – FD Dated: 20/03/2008.

To,
The Deputy Conservator of Forests,
South Goa – Margao.

Sub: Permission for use of Forest Road passing through survey no 72 of Village Colomba of Sanguem Taluka of South Goa & survey no. 2 of Curpem Village.

Ref: 1) Your letter no. 6/439/SGF/2007-08/3098 dated 19/03/2008
2) Your letter no. 6/439/SGF/2007-08/3013 dated 13/03/2008

With reference to the above cited subject and your letters and as recommended by you, permission is herewith granted to use a stretch of 400 meters Long Forest Road of about 6 meters in width passing through the survey no. 72 of Colomba Village and survey no.2 of curpem Village in Sanguem Taluka for transportation of ore by M/S Hiralal Kodidas from T.C.no. 6/49 in survey no. 51/1, 68, 71, of colomba village.

This permission is given to avoid transportation of Ore by trucks through narrow road passing through a cluster of dwelling houses in village which causes heavy pollution and is opposed by the villagers.

The permission to use Forest Road is subject to the following conditions.

1) Payment for the cost of fencing on either side of the road and erection of gate at the start of the road.
2) Payment of wear and tear of the road as demanded by the department.
3) Salary of two field staff to be deputed for protection.
4) No transport should be carried out after sunset and before sunrise
5) Realizing charges for using the road at the rate of Rs.20, 000/- per month.
6) The department reserves the right to close the road at any time without further notice.
7) Using the road does not give any right to the lease holder or its continuance.
8) No development of road should be carried out.
9) Usage of road may be allowed till 15th of June 2008
10) No ore from forest area is transported and the mines department has renewed the lease and the lease is valid.
This has the approval of competent authority.

20/03/08

(C.A.Reddy) IFS,
Conservator of Forests,
&
I/C Chief Conservator of Forests.

166

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

GOA BENCH, AT PANAJI.

WRIT PETITION NO.136 of 2008

Rama Ladu Velip & ors. ..Petitioners

v/s

State of Goa and ors ..Respondents

AFFIDAVIT OF PETITIONER NO.1

I, Rama Valip, resident of Colomba village, petitioner No.1 herein, do hereby solemnly affirm and submit as follows:

1. That this Hon'ble Court, during its last hearing of the above petition on 10.3.2008, had accepted the undertaking of the Goa Government through AG that all activities in the forest areas on the impugned mining lease would be stopped forthwith.

2. However, the Respondents Nos.11 and 12 did not heed to the order of the Court and continued their mining activities through the forested areas of the lease.

3. Thereafter, calls were made to the office of the Deputy Conservator of Forests (DCF) South, complaining that the mining company was continuing to operate through the forest areas. On 14.3.2008, I caused a letter to be sent to the DCF, South, bringing

the violation of the Forest Act and the order of this Court to his notice. Copy of the letter is hereto annexed to this affidavit as ***Exhibit A***.

4. Thereafter, on the same day, officials of the Forest Department have conducted a raid and arrested a few vehicles and conducted panchanama in the case. Copy of the news item in respect of the arrest is hereto annexed to this affidavit as ***Exhibit B***. Application for copy of the panchanama has been made and copy is expected to be provided to the petitioners.

5. I am filing this affidavit for the sole purpose of bringing the above facts on record as they are relevant to the implementation of the order dated 10.3.2008 passed by this Hon'ble Court in the above petition.

Solemnly affirmed, this
the 24th day of March, 2008

Deponent

168

Ref: Colomba Mine 06/49 - 2008
From: -The United Farmers Group
of Colomba Village,
C/o Mr. Salvador Dias,
H. No.208,
Colomba Rivona,
Sanguem – Goa.
14 March 2008

To
The Dy. Conservator of Forests,
Office of the Dy. Conservator of Forests,
Aquem, Margao – Goa.

To:
Range Forest Officer,
Conservator of Forests office
Quepem – Goa

RE: The Hiralal Khodidas Mining Co. Trepassing the forest land transporting the Mineral Ore.

Sir,

This is to bring to your notice that in spite of the closure of the gate by the R.F.O., which the above mentioned company was transporting the mining ore, it has more than once violated the order and defiantly opened the gate and made new ways all through the forest areas surveyed under survey Numbers:57 (P) & 68(P)

Today we have witnessed that the Mining company in mention has broken open the seal put by the forest department and shifted the heap of mud, that was placed at the gate to prevent the trespasses, in order to make the way clear of the obstacles to transport the ore It is a serious offence as the mentioned company does not seem to show respect to the forest authorities. Taking note that the high court has passed an order, no mining or such activities can be done in the reserved forests or private forest areas which have been identified and demarcated by the Kalapurkar and Sawant Committees. These activities must be put an end too as it is like a 'hide and seek' affair.

Kindly take the steps required to stop this untowardly behaviour.

Yours sincerely

Mr. Salvador Dias & Ors.

cc. 1) R.F.O. Colomba – Rivona , Goa.
2) R.F.O. Curdi – Neturlim, Sangem – Goa.

Received on 14/3/2008 at 2.35 P.M.
RANGE FOREST OFFICER
CURDI, SANGUEM-GOA

14/3/08

Despatch Clerk
Dy. Conservator of Forests

~~127~~
169

HERALD - 15|3|2008

Two mining trucks detained for trespass

HERALD CORRESPONDENT

QUEPEM, MARCH 15– Officials at the Curdi Range Forest office in Sanguem detained two mining trucks on charges of trespassing into the reserve forest at Gulkond-Donger in Colomba.

Sources informed Herald that the trucks (GA-02-T-8304 and GA-09-U-1999) were proceeding to a mining site at Gulkond-Dongor, when a forest team, led by RFO Fadte, intercepted the vehicles.

According to villagers, the mines at Gulkond-Donger have no access other than a path through the reserve forest. The forest department had erected a barbed wire fence to block the illegal path by the mining company.

Villagers claimed that alert forest officials have foiled a number of attempts by the mining company to remove the barbed wire fence.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

GOA BENCH, AT PANAJI.

WRIT PETITION NO.136 of 2008

Rama Ladu Velip & ors. ..Petitioners

v/s

State of Goa and ors ..Respondents

REJOINDER AFFIDAVIT OF PETITIONER NO.3

I, Dr Claude Alvares, Secretary, petitioner No.3, do hereby solemnly affirm and submit as under:

1. I am filing this affidavit as a counter to the affidavits of the Respondent No.11, the affidavits of the Director of Mines and of the DCF (south) of the Forest Department. I am also annexing as ***Exhibit A*** some photographs to show mining activities of Resp No 11 including dumping of rejects in the forest areas and the threat posed by the mining operations to the nullah, nullah water and the agricultural fields.

With reference to the affidavit of Uday Gosalia, Resp.No.11:

2. With reference to para 1, I deny that Shri Uday H. Gosalia is the legal heir to the mining lease.

3. With reference to para 2 of the said affidavit, there are only two mines presently operating in the village of Colomba. Petitioner

No.3 has already filed a petition challenging the legality and operation of the mine of Badrudin Mavany which has been admitted and is pending hearing before this Hon'ble Court.

4. With reference to para 5, I admit that the report of the Dy.Collector was provided to the Petitioner No.1. However, except for one feature of the report which indicates that the fields are not yet sedimented, I will show that in its main conclusions support the grievances and apprehensions of the villagers. The report of the Dy.Collector was carried out in the post-monsoon period, in October 2007. Petitioners rely upon photographs of the nullah at ***Exhibit A*** to show the true position during the monsoon period.

pg 149

Hecta's report says Sufficient Contradict

5. With reference to para 7, I say that the mine has been operated and that too only manually on intermittent occasions. Sometimes it has been shut down for years altogether. I deny that the mining lease was extended by the government as stated in the affidavit.

6. With reference to para 9 and the statements made in respect of the public hearing, I say that the advertisement was placed in the *Herald* which is in English (not Konkani) and not read by the average villager in Colomba. One activist, Bro. Philip, from Rivona village, attended the hearing and tried to voice opposition to the proposed mining activity on behalf of the villagers. Petitioner No.3 has filed a detailed representation on all the environmental impacts of mining before all the authorities involved in such hearings and requested the authorities not to grant any clearances till such time as the environmental issues are addressed. Petitioner has also attended over 20 public hearings but has now stopped attending such hearings as they have degenerated into a farce: truck owners and drivers are brought to the hearing by mining companies en masse and they abuse and threaten the persons opposing opening of the lease. As the minutes of the EAC committee indicate, the objections recorded at these public hearings are not even considered. In

several cases, the EAC has recommended environment clearance even when the entire public hearing proceedings unanimously go against the mine in question.

7. With reference to the para 11, I deny that the Respondents are carrying out mining only in the area not earmarked as private forest. The forest department itself has admitted that the private forest area around the lease has been used for dumping. I reiterate that the mining is affecting the private forest area, particularly in Sy.No.57/1 which was almost all forest and is now mysteriously cleared. In fact, the area of Sy.No.57 which is not part of the lease still has excellent forest. I reiterate that ore is being transported on an illegal road through the private forest area (between Sy.Nos.57, 68 and 71) which has been constructed after large-scale destruction of trees and for which no approval under FCA has been obtained. It is incorrect to state that demarcation of private forest on the plot was done in 1996 or thereabouts. The Sawant Committee itself was set up in January 1997. This High Court, in an application filed by the petitioner No.3, issued directions in its order dated 2.7.2003 requiring the government to do the demarcation on the ground. After several long delays and more applications, report on the area was filed only in June 2006.

8. With reference to para 14, I say that the agricultural production has been affected. I say that compensation is being dished out to farmers for the harm done by the mining operations. Several paddy fields have not been cultivated this season as a consequence. As per the report of the Canal Officer (p.151 of paperbook) silt has already accumulated in the nullah. I say that it is only as matter of time before the entire nullah is silted permanently affecting paddy production.

9. With reference to para 15, I say that the fields are only 100-200 metres from the mine boundary. In one section, the coconut trees are already being submerged. I deny that any garland drain

has been constructed or any other measures for arresting the surface run off. Even if such drains are constructed, they are bound to overflow and destroy the nullahs.

10. With reference to para 18, it is submitted that the forest demarcation on the ground has been carried out only after the mining activities had already destroyed large areas of forest in Sy.No.57/1. I reiterate what is said in the petition: that sy.no.57/1 is forest; however, huge mining dumps have been created by destruction of forest.

11. With reference to para 19, I deny that there are any air pollution monitoring stations or that any regular checks are carried out by the authorities. Neither the Department of Mines nor the IBM have the necessary staff for monitoring of the 70 odd mines that are cleared for operation in the state of Goa.

12. With reference to para 20, I say that the Avanti nullah that flows through the lease, flows directly into the Kushavati river. Mining sediment flows directly into the river through the nullah. Petitioners will rely upon photographs to indicate the true state of affairs.

13. With reference to paras 23 and 44, the Respondent is not at all providing correct information on oath. The report of the Dy. Collector referred to by the Respondent in para 5 of his affidavit, clearly states that the mine is "presently operated by Fomento Mining Group." The Repondent No.12 has not filed an affidavit in the proceedings. On the other hand, the Inspection Report of Hector Fernandes dated 2.4.07 indicates that the mine is being operated by a contractor: M/s Infrastructure Pvt. Ltd. pg 106 pg 137

14. With reference to para 32, I deny that there was a public road through Sy.No.72 of Colomba village. Permission to use the illegal road was granted by the Forest Department after pressure was

exerted by the Respondents after the writ petition was filed. No permission for diversion of the forest for use of the road through Sy.No.72 has been obtained. Neither can the approval be considered of any use as the mine operator does not have today a valid mining lease. I deny that the Respondent No.11 has a right of access through Sy.No.71/1, since there was no access ever and this has been created only in 2007 after the village of Colomba stopped the mine operator from moving his ore through the village road.

15. With reference to para 37, I say that the explanation provided only makes things worse. The Respondent is claiming that a mistake of inserting an extra "million" tonnes of mine waste occurred in his application and was thereafter carried over by the Ministry of Environment and Forests and repeated by it in its clearance order. The instance is proof of how carelessly the Ministry functions in conducting its duties towards protection of the environment and forests.

With reference to the affidavit of J.B. Bhingui

16. With reference to para 12, I say that being assured that inspection was being carried out on 20.3.2007, the petitioners Nos.1 and other villagers waited for the inspection team from 10.30 am onwards. However, no team came to the site. The villagers thereafter dispersed. I say that there was no reason for the petitioner No.1 and other complainants not to remain present at the site when the inspection was presumed to take place. I say that Respondent being aware that a new site had been started for mining activities on 24.10.2006 without environment clearance, forest clearance and pollution clearance from the Pollution Control Board, the Respondent was duty bound to ensure that it was shut down in view of the orders of the apex court in writ petition No.460/2004. However, since the Mines Department in Goa is always in cahoots with the mine operators, the Respondent No.12 was permitted to start his operations despite not having either environment clearance

or consent from the Board, let alone permission under the FCA. I deny that 33 farmers have received compensation for damage to their fields. Only 23 farmers have accepted the payment; others have refused. I say that the issue of compensation is adequate proof that agriculture is to be stopped with cash payments, at least for the next decade.

17. Both paras 13 and 14 squarely indicate that significant environmental safeguards were not imposed in the mining plan. The measures recounted have not prevented destruction of paddy fields and nullahs in other mining villages, as there is no measure adequate to control monsoon precipitation of more than 120 inches of rain in the area over a period of four months. In fact, with all top cover removed and with the total absence of vegetative cover, the mining silt is bound to migrate speedily through massive erosion into the nullahs and the adjoining fields, especially as the mining is on a higher level and on a steep gradient.

Solemnly affirmed, this
the 2nd day of April, 2008

Deponent

184

IN THE HIGH COURT OF BOMBAY AND GOA AT PANAJI

WRIT PETITION NO. 316/2008

Rama Ladu Velip & Ors. ... PETITIONERS

v/s

State of Goa and Ors. ... RESPONDENTS

AFFIDAVIT-IN-REPLY OF RESPONDENT NO. 11 TO THE AFFIDAVIT DATED 24-03-2008 OF PETITIONER NO. 1.

I, Shri Uday H. Gosalia, son of late Hiralal Khodidas, major in age, Indian National, residing at Curchorem, Goa, the legal heir of the Respondent no. 11 above named being conversant with the facts of the case, do hereby on solemn affirmation beg to state and submit as under:

I have read the affidavit of Rama Velip and in reply thereto, I beg to state as under:

1. The Petitioners contend that the Respondents no. 11 and 12 did not heed to the order of the Court and continued their mining activities through the forested area, at the

outset I say that the Respondent no. 11 is not doing any mining in the area earmarked as private forest. I deny that we did not heed to the orders of this Hon'ble Court as alleged.

2. I say that I have setout in my affidavit in reply the relevant facts concerning our mining operations at the mine and emphatically I have stated that we are not doing any mining in the area which is demarcated as a private forest.

3. With regard to contents of para 3, I am not aware of any complaint and about calls alleged to have been made to the Forest Department and the letter sent to the DCF. The same must have been looked into in the light of the fact that we are not doing any mining within the forest area.

4. Dealing with the alleged complaint at Exhibit-A, I say that as a fact, we have been permitted to use the access which we were using by the Forest Department, vide letter of the Forest Department dated 20-3-2008.

5. Now regarding the news item at exhibit-B, I say and submit that no raid was conducted on us by the Forest Department, and the said report does not pertain to the activities within our mines, neither the trucks referred to in the report have any connection with us or even the purchasers of our ore.

6. The Affidavit is motivatedly being filed by the Petitioners to prejudice this Hon'ble Court with false facts, with respect. I say that the Petitioners are carrying on a tirade against us selectively and despite having approached this Hon'ble Court with this Writ Petition have even taken law into their own hands and are intimidating and threatening our staff, our transport contractors and using coercive methods against us and physically obstructing us from carrying on mining, which we are legitimately carrying out.

7. Contents of the affidavit under reply which are not specifically admitted and which are contrary to what is stated hereinabove may be taken as denied.

187

I, the deponent above named do hereby on solemn affirmation beg to state that whatever stated in the foregoing paras are facts true to my own knowledge.

SOLEMNLY AFFIRMED AT PANAJI

ON THIS 2ND DAY OF APRIL 2008 DEPONENT

Identified by me:

Advocate for Respondent

IN THE HIGH COURT OF BOMBAY AND GOA AT PANAJI

WRIT PETITION NO. 136/2008

Rama Ladu Velip & Ors. ... PETITIONERS

v/s

State of Goa and Ors. ... RESPONDENTS

AFFIDAVIT-IN-SUR-REJOINDER

I, Shri Uday H. Gosalia, son of late Hiralal Khodidas Gosalia, major in age, Indian National, residing at Curchorem, Goa, the legal heir of the Respondent no. 11 above named being conversant with the facts of the case, do hereby on solemn affirmation beg to state and submit as under:

1. I have read the Affidavit dated 2-4-08 of the 3rd Petitioner and as certain new facts have been averred in the affidavit of the 3rd Petitioner, I have been advised to file this rejoinder to the said affidavit of the 3rd Petitioner, which I hereby do as under:

2. At the outset I say that the affidavit under reply deserves to be rejected, in as much as, the deponent has not verified the same.

3. The 3rd Petitioner has annexed photographs as Exhibit-A to his affidavit and at para 1 claimed that the said photographs depict dumping reject in the forest area and threat posed by the mining operations to the nullah, nullah water and agricultural fields. I say and submit that the averments in para 1 are false and meant to mislead this Hon'ble Court, with respect.

4. I say that I have been advised to deal with the photographs to show that they do not depict what is being portrayed by the Petitioners. I say that 1st photograph affixed at page 176 of the affidavit as numbered in my copy is in fact the settling pond built by us to contain the water and avoid any siltage and ensure the retention of silt at the pond. In fact, the said photograph must have been taken by the Petitioners during the monsoon, if not the last the previous one. The Petitioners chose not to approach this Hon'ble Court at the time when the said photograph were taken and presumably the Petitioners

were satisfied that adequate measures have been taken by us whilst carrying out mining activities. The 2nd photograph at page 176 is a rejection dump within the lease area and permitted dumping site in terms of the approved mining plan. The said photographs in fact depict that overburden is dumped in planned manner. In fact, the said photograph shows that beyond the dump there is a retention wall constructed with silt dams beyond which is the silting pond. Despite knowing that both the sites depicted shown in he photographs at page 176 do not fall in the forested area, deliberately to mislead this Hon'ble Court the deponent inserted a legend at the foot of the said photograph to the following effect "mining activities in forest land". The photograph at page 177 is the mining pit where we are mining in terms of the approved mining plan. The said pit is not in the forest area. I say that the 2nd photograph at page 177 is of low grade stack of iron ore/rejection dump which does not fall in forest area. The photograph at page 178 is again the photograph of the same site but taken from a different angle. I say that the land where there is vegetation beyond the retaining wall is not the forest land, which fact is well within the knowledge of the Petitioner. The 2nd photograph at page

178 is the photograph of a dump within the property bearing survey no. 71/1. This dump is an old dump which existed in the said portion of the property even prior to identification of the said property as private forest. In fact, the said dump existed when the mine was operated manually and the same is not within our lease area. The photographs at page 179 are of the same dump taken from a different angle. Regarding the first photograph at page 180, I say and submit that the said tree does not fall in forest area, the same has been numbered along with the trees falling within the area earmarked as a dump area in terms of the mining plan. The 2nd photograph at page 180 is also of the same area but taken from a different angle. With regard to photograph at page 181 I deny that the area shown therein is a paddy-field. As regards 2nd photograph at page 181, the same has been taken from the pit top. I deny that edge of iron ore pit is adjacent to the cultivated area as alleged. I say that the cultivated area is at least 300 metres away from the border of the mining lease. The first photograph at page 182 show that the same has been taken if not earlier at least in the year 2007. The Petitioner chose at that time not to approach this Hon'ble Court as the Petitioners were satisfied that the water was not contaminated with

mining silt, as is now sought to be portrayed. In fact the 2nd photograph at page 182 depicts that the water passing through is clean water. As regards the 1st photograph at page 183, it is denied that the same is of any nullah and that it indicates at nullah. I say that at no point of time there is silt in the nullah. With regard to the 2nd photograph at page 183, I emphatically deny that the said coco filters are in the forest area, in fact the same are in the property bearing survey no. 70/1, which is not identified as private forest. I say that the extent of coco filters shows the precaution which we have taken to arrest siltage. I say that coco filters is a state of art method meant as an added precaution to ensure that there is no siltage.

5. With regard to contents of para 3, it is denied that there are only two mines operating in Village Colamba. I say that the Petitioner himself has identified 6 mines which are being operated in the Colamba village. I am not aware whether any petition has been filed challenging the operation of Badrudin Mavany Mine. I say and submit that as a matter of fact, the said mine is operational.

6. With regard to contents of para 4, I deny that the conclusion in the Dy. Collector's report support the apprehension and the grievance of the villagers. I say that as a fact, the Petitioners had the photographs in hand during the last monsoon and obviously did not find any fault with our mining activities and were satisfied that our activities would not cause any environmental degradation, and as such, did not approach this Hon'ble Court.

7. With regard to contents of para 5, it is denied that the mine was operated manually on intermittent occasions as alleged. I also deny that the mine had been shut down for years altogether as alleged. I say that ours is an old concession granted to my late father Shri Hiralal Khodidas during the erstwhile Portuguese regime even much prior to the deponent being a resident of Goa. The averment made by the deponent at para 5 are false.

8. With regard to contents of para 6, I say and submit that the public hearing was attended by villagers as such. I say that to the knowledge of the Petitioner no. 3, the advertisement was published not only in daily Herald but also in Gomantak and

Tarun Bharat in Marathi language and Konkani language. I crave leave to refer and rely on the said advertisement published in the said local dailies, copies of which I am annexing hereto as **ANNEXURE-A.** I do not admit that one Br. Philip attended the hearing and tried to voice his grievance on behalf of the villagers as alleged. I do not admit for want of knowledge that the Petitioner no. 3 had filed a detailed representation on the environmental impact of mining before all the authorities as alleged. I say that the objections and the suggestions made at the public hearing were taken into account by the authorities whilst granting environment clearance. I say that the objections which were raised at the public hearing were replied by us. I am not aware for want of knowledge and I deny that the Petitioner attended public hearing. I say that the imputations made by the Petitioner as regard public hearing, in fact are motivatedly made based on false facts. The public hearing was held in an orderly manner and in terms of law. I deny that the minutes of EAC Committee indicates that the objections recorded are not even considered as alleged. I say that the objections are considered by the committee and on consideration of the objection and our reply thereto, the authorities after application of mind

have granted permission to us. Rest of the contents of para 6 which are not specifically admitted may be taken as denied.

9. With regard to contents of para 7, I reiterate and maintain that the Respondent no. 11 is not carrying on any mining activity in the area earmarked as private forest. I deny that the Forest Department has admitted that the private forest area around the lease has been used for dumping as alleged. I deny that we have cleared the forest area in survey no. 57/1 mysteriously as alleged. I say that the fact that the area of survey no. 57, which is not part of the lease, has excellent forest as averred by the deponent indicates that we are not disturbing the area earmarked as forest whilst carrying our mining activities. I deny that we are transporting ore through an illegal road through the private forest as alleged. I deny that the road has been constructed by us after large scale destruction of trees as alleged. I say that the said road is a village road which always existed and we are using it like every other villager and other mining operators' is using. In the affidavit in reply at para 7, an issue has been joined to my statement that the demarcation of private forest was done in 1996. I say that by mistake in para 11 of my affidavit in reply

the figure "1996" has been typed instead of the year 2006 when factually what ought to have been typed is year "2006". I say that the said mistake may be read as corrected by this statement. I say that as a matter of fact the demarcation carried out by the Forest Department was in the year 2006.

10. With regard to contents of para 8, I deny that the agriculture production has been affected as alleged. I deny that compensation is dished out to the farmers for the harm done by the mining operation as alleged. I say that the compensation was paid to the farmers not to arrest any damage but was paid to mitigate any loss which could ensure to them, which as a matter of fact did not ensue till date and we shall ensure that no damage and/or loss will ensure to the farmers. I also deny that several paddy-fields have not be cultivated as the consequences as alleged. I further deny that the silt has already accumulated in the nullah as alleged. I say that innocuous averments made at para 8 of the affidavit in rejoinder itself make it abundantly clear that the said allegations are motivated. Rest of the contents of para 8 which are not specifically admitted are denied.

11. With regard to contents of para 9, it is denied that the fields are only 100-200 metres from the mine boundary as alleged. I deny that in one section the coconut trees are already being submerged. The said allegation is false. I deny that the garland drains are bound to overflow and destroy the nullah as alleged. I say that the averments in para 9 are meant to mislead this Hon'ble Court. The photographs annexed by the Petitioners itself shows the existence of garland drains.

12. With regard to contents of para 10 and 11, it is denied that the forest demarcation on the ground has been carried out only after the mining activities have already destroyed large areas of forest in survey no. 57/1 as alleged. I deny that the huge mining dumps have been created by the destruction of forest as alleged. I reiterate and maintain that we are not doing any mining activities in the area earmarked as private forest. Rest of the contents of para 10 and 11 which are not specifically admitted and which are contrary to what is stated hereinabove may be taken as denied.

13. With regard to contents of para 12, I deny that the Avanti nullah flows directly into the Kushavati River as alleged. I say that Kushavati River is at a distance of about 4 kms from our mining lease site. I also deny that the mining sediments flows directly into the river through the nullah as alleged.

14. With regard to contents of para 13, I reiterate and maintain that we are mining in the said mine and the Respondent no. 12 is buying our ore. The reports referred by the Petitioner no. 3 in the Affidavit in rejoinder cannot determine as to who is mining the said mine. I emphatically state that the said mine is operated by us. Rest of the contents of para 13 are denied.

15. With regard to contents of para 14 and 15, I deny that the road is an illegal road as alleged. I further deny that the permission to use the road was granted by the Forest Department to us after pressure was exerted by us as alleged. It is deny that the said access has been created in 2007, after the village of Colamba stopped the mine operator from moving his ore through the village road as alleged. Rest of the contents of para 14 and 15 which are not specifically admitted

and which are contrary to what is stated hereinabove and what is stated in my affidavit in reply may be taken as denied.

16. With regard to contents of para 16, which bears reference to para 12 of affidavit of Shri J.B. Binge, I have been advised to deal with the same to setout pertinent facts in view of the assertion of the deponent in the affidavit in rejoinder. I say that after the said inspection Shri Hector Fernandes and one Mr. Sirsat from Directorate of Mines and Geology instructed us to carry out protective measures besides the measures which we had taken and amongst the measure was erection of coco bund filters, silt measuring scale and strengthening of earthen embankment with Laterite pitching which we did and completed in April 2007. I say that as a fact, we are carrying on mining all throughout right from the time of mining concession, in fact, to comply with the requirements under Environment Protection Act, as we had decided to expand our mining activities, we applied for environment clearance. I say that the compensation was paid to the farmers not to arrest any damage but was paid to mitigate any loss which could ensure to them, which as a matter of fact did not ensue till date and we shall ensure that no damage and/or loss will

ensure to the farmers. Rest of the contents of para 16 which are contrary and inconsistent to what is stated hereinabove may be taken as denied.

17. With regard to contents of para 17, the same are devoid of any material particulars and are hence denied. I reiterate and maintain that we have taken all the precautions and safe-guards to avoid any siltage of nullah.

18. Contents of the affidavit-in-rejoinder filed by the deponent which are not specifically admitted and which are contrary to what is stated hereinabove and contrary to what is stated by me in the affidavit in reply may be taken as denied.

I, the deponent above named do hereby on solemn affirmation beg to state that whatever stated in the foregoing paras are facts true to my own knowledge.

SOLEMNLY AFFIRMED AT PANAJI
ON THIS 7TH DAY OF APRIL 2008 DEPONENT

Identified by me:

197
201

गोंय राज्य प्रदूशण नियंत्रण मंडळ

पाटो पणजी– गोंय

क्रं. 11/15/फैसींवों/ वॉल्यूम III /1531
तारीख : 28/07/2005

पर्यावरणीय भौशीक सुनावणेखातीर कळोवणी

सकयल्या उपक्रमशिल आस्थापनानी दक्षिण गोंय जिल्ल्यात भाडे पट्टी चाठारांत मीनाचें उत्पादन विस्ताराखातीर /नवीनीकरणाखातीर प्रस्ताव धाडल्यात. नियोजीत मीनाचें उद्योगाक लागून भौशीक इनवायरमेंट इम्पॅक्ट असेसमेंट नॉटोफीकेशन 1994 आनी 1997 , सैमीक (संरक्षण) सैमिक प्रकल्पासंबंदी तारीख, वेळेची तपशिलवार म्हायती सकयले प्रमाण.

क्र.	अर्जदाराचे नांव	टी.सी. क्र.	गांव/ तालुको	तारीख /वेळ
1.	ए एक्स पी पार्तोदीकर(हुनांतलो डोंगर मॅंगनीझ ओअर मायन)	17/49	कोळंबा/ सांगे	31/8/05 सकाळी 11.00 वरांचेर
2.	श्री जी एन अगरवाल(बोरची मोर्डी आयर्न ओअर मायन)	6/61	मायणा/ केपे	31/8/05 सकाळी 11.00 वरांचेर
3.	श्री हिरालाल खोदीदास (गोगोरो ओय गुलकन डागर आयर्न आनी मॅंगनीझ मायन)	6/49	कोळंबा/ सांगे	31/8/05 सकाळी 11.00 वरांचेर

प्रकल्पाचो/ मीन चाठाराचो जांचेर परिणाम जांव येता अशयां योग्य रहिवाशो , सैमीक पंगड आनी हेर इत्सूकांनी हे भौवशीक सुनावणी भाग घेवं येता. त्यो सनदान किंवा सुचोवण्यो, मतां, भास्य वा हरकती आसल्यार ताणी त्यो ही कळोवणी प्रसिध्द जाल्ल्या तारखेसावन 30 दिसांभितर राज्य प्रदूशण नियंत्रण मंडळ, पयली माळी, ॲपो दॉवर्स, पाटो पणजी गोंय हांगां लेखी स्वरूपात कळोवचें.

त्या प्रकल्पासंबंदातले कार्यकारी संक्षीप्त सॅलियंट फिचर हवा (संरक्षण आनी प्रदुशण नियंत्रण) नियम 1983 हाच्या विहीत नमुनो I आनी पर्यावरण (संरक्षण) आनी प्रदुशण नियंत्रण) नियम 1976 विहीत नमुनो 13 हाच्या प्रकल्पचालकांनी सादर केल्ले, कोंकणी / इंग्लीशांतल्यो प्रती खालीं सकयल्या कार्यालयांत दवरल्यात.

1. जिल्लाधिकारी कार्यालय– दक्षिण गोंय
2. खाण संचालनालय, पणजी– गोंय
3. मुख्य कार्यकारी अधिकारी हांचें कार्यालय–जिल्ला परीशद दक्षिण गोंय
4. प्रकल्प चाठारातल्या संबंदीत ग्रामपंचायती
5. गोंय प्रदूशण नियंत्रण मंडळ, पाटो, पणजी गोंय
6. गोवा टेक्नालाजी अण्ड इनायरन्मेन्ट खातें.

ह्या सुनावणी सनदीचें, कामकाज पाठपुराव्याखातीर अर्जासयत एमओइएफ जी ओ आय हाका इन्वायरन्मेन्टल क्लिअरींसाक मान्यता

सय/–
ए.के. वझांतानी
सदस्य सचिव

198
202

गोवा राज्य प्रदूषण नियंत्रण मंडळ

पाटो, पणजी-गोवा

क्र.१२/१५/०५-पोसीबो/व्हॉल-III/१५३१

दि.२८/०७/०५

पर्यावरणीय सार्वजनिक सुनावणीसाठी सूचना

गोवा राज्यामध्ये खालील ठिकाणी प्रस्तावित केलेल्या उद्योगांच्या/प्रकल्पांच्या विस्तार/नवीनीकरणासाठी/पाडेसेवाच्या पर्यावरण (संरक्षण) कायदा, १९८६ च्या खाली पर्यावरणीय प्रदूषण नियंत्रणाची ३१९४ मंपील तरतुदी यांचे पालन करण्यासाठी अर्ज केले आहेत. पर्यावरणीय प्रदूषण नियंत्रण मंडळाने सार्वजनिक सुनावणी घेण्याचे ठरविले आहे. सदर सुनावणी खालील ठिकाणी, तारीख व वेळ येथे होणार आहे.

अ.क्र.	अर्जदाराचे नाव	ठिकाण	गाव/तालुका	दिनांक/वेळ
१.	ए.एक्स.पी. मार्केटिंग (इंडिया) प्रा.लि. (एम.एम.जी. खनिज खाण)	कोडली	कोडली/सांगे	२१.०८.०५ रोजी स.११.०० वाजता
२.	श्री. बी. एन. अग्रवाल (बाला मोहन लोहखनिज खाण)	सावणे	सावणे/सांगे	२१.०८.०५ रोजी स.११.०० वाजता
३.	श्री. झिपलाल खोडीदास (गोमांते ग्रुप ऑफ माईन्स लि. खनिज खाण)	गोळावली	गोळावली/डिचोली	२२.०८.०५ रोजी स.११.०० वाजता

सार्वजनिक सुनावणीच्या प्रकल्प क्षेत्रामध्ये राहणारे गोवा राज्यातील असे नागरिक ज्यांना प्रस्तावित प्रकल्पाबद्दल काही सूचना/हरकती करावयाच्या आहेत त्यांनी सदर सूचना प्रसिद्ध झाल्याच्या तारखेपासून ३० दिवसांच्या आत लेखी स्वरूपात गोवा राज्य प्रदूषण नियंत्रण मंडळाच्या कार्यालयात, पत्ता मंडळाच्या खालील पत्त्यावर पाठवाव्यात. त्यानंतर आलेल्या सूचना/हरकती विचारात घेतल्या जाणार नाहीत. सूचना/हरकती पाठविताना त्यांनी त्या कोणत्या प्रकल्पाबद्दल आहेत त्याचे नाव, पत्ता व तालुका याचा उल्लेख करावा. सूचना/हरकती पाठविताना त्यांनी त्या कोणत्या प्रकल्पाबद्दल आहेत त्याचे नाव, पत्ता व तालुका याचा उल्लेख करावा. सूचना/हरकती पाठविताना त्यांनी त्या कोणत्या प्रकल्पाबद्दल आहेत त्याचे नाव, पत्ता व तालुका याचा उल्लेख करावा.

प्रकल्प प्रस्तावकर्त्यांनी जल (प्रदूषण प्रतिबंध व नियंत्रण) नियम १९७४ च्या खाली विहित असलेल्या फॉर्म १३ आणि हवा (प्रदूषण प्रतिबंध व नियंत्रण) नियम १९८३ च्या खाली विहित असलेल्या फॉर्म १ मध्ये प्रकल्पाच्या सांपत्तिक खर्चासहित कार्यक्रमाची सादरीकरणाच्या प्रती सदर पत्त्यावर खालील कार्यालयात पाठविल्या असल्या पाहिजेत.

१. जिल्हाधिकारी यांचे कार्यालय, दक्षिण गोवा.
२. खाण संचालनालय, पणजी गोवा.
३. मुख्य कामकारी अधिकारी, दक्षिण गोवा जिल्हा परिषद यांचे कार्यालय
४. प्रकल्प जागेच्या स्थानिक संस्था
५. गोवा राज्य प्रदूषण मंडळ मार्च कार्यालय, पाटो, पणजी-गोवा
६. संचालक, विज्ञान, तंत्रज्ञान व पर्यावरण यांचे कार्यालय

सार्वजनिक सुनावणीचे कार्यवृत्त पर्यावरण व वन मंत्रालय, भारत सरकार यांच्याकडे सदर खाण प्रकल्पांच्या अर्जासहित पाठवून देण्यात येईल कारण पर्यावरण व वन मंत्रालय, भारत सरकार यांच्याकडून पर्यावरणीय निर्णय देण्यात येतो.

सही/-

(ए. के. चक्रिरांणे)

सदस्य सचिव.

Gomantak dated 29/7/05

2033

IN THE HIGH COURT OF BOMBAY GOA BENCH
AT PANAJI, GOA

Writ Petition No.136 of 2008

Rama Ladu Velip & Ors. ... Petitioners

Versus

State of Goa and Ors. ... Respondents

AFFIDAVIT ON BEHALF OF RESPONDENT NO. 6

I, Ashok G. Daiwajna, aged about 51 years, Indian National, residing at Porvorim, Bardez, Goa, do hereby on solemn affirmation, state and submit as under :

1. I state that I am presently working as Member Secretary in the Respondent No.6 Board and I state that I am authorised to file the present Affidavit.

2. I state that the Goa State Pollution Control Board vide letter dated 14/03/2008 had issued a Show Cause Notice to the Respondent No.11 asking them to show cause as to why their consent to operate should not be revoked / recalled until prior Forest Clearance has been obtained. I state that a copy of the Show Cause Notice was sent to the Collector for enforcement of the

directions and also to the Chief Electrical Engineer for disconnection of power supply. I state the Collector had intimated the Board that the Office of the Collector had numerous other responsibilities and functions to be complied with on urgent basis ranging from Election to magisterial and administrative to judicial and hence additional duties / responsibilities as in the instant case hampers the smooth functioning of his office and that the Collector informed the Board to route such directions through the Revenue Department. I state that the matter was taken up with the Chief Secretary and the Chief Secretary has since directed the Collectors to act upon the directions issued by the Board under the Provisions of Sections 31A and 33A of the Air and Water Acts respectively.

*Annexed hereto and marked as **"Exhibit A"** is the copy of the Show Cause Notice dated 14/03/2008.*

4. I state that Respondent No. 11 vide his reply dated 20/03/2008 informed the Respondent No. 6 Board that only a part of the Mining Lease i.e. 57/1(P) and Survey No. 68/1(P) is demarcated as private forest.

*Annexed hereto and marked as **"Exhibit B"** is a copy of the Reply dated 20/03/2008.*

5. I state that upon receipt of the aforesaid reply,

the Goa State Pollution Control Board vide communication dated 28/3/08, requested the Chief Conservator of Forests to clarify whether the Mining Operations can be carried on outside the forest area without the forest clearance. I state that the Chief Conservator of Forests is yet to reply to the said communication. I state that the decision on the Show Cause Notice would be taken by the Board upon receipt of the Reply from the Chief Conservator Forests.

*Annexed hereto and marked as **"Exhibit C"** is the copy of communication dated 28/3/08.*

6. I state that the Goa State Pollution Control Board has issued a Show Cause Notice to the Respondent No. 11 along with the Closure Direction. I therefore state that nothing survives in this Writ Petition and the same be dismissed as the Authority is ceased of the matter.

Whatever is stated hereinabove is partly true to my knowledge and partly based on the records available with the Board which I believe to be true and correct.

Solemnly affirmed at Panaji, Goa }
this 5th day of April, 2008 } **DEPONENT**

Identified by me :-

'EXHIBIT A1

GOA STATE POLLUTION CONTROL BOARD 206

गोंय राज्य प्रदुशण नियंत्रण मंडळ

Phone Nos: +91-832-2438567, 2438528
2438563, 2438550
Fax No. : 832-2438528

Dempo Towers, 1st Floor,
EDC Plaza, Patto.
Panaji 403 001, Goa.

No. 1/25/07-PCB/ 6,619 By Regd.A.D./Fax 11 /03/2008

SHOW CAUSE NOTICE

WHEREAS this Board has granted you Orders bearing nos. Water/2534/2008 and Air/1255/2008, dated 11/02/2008. respectively. for Consent to Operate your Mine unit, namely Gogoro Ou Gulcan Dongor Mine, located at T.C No. 6/49, at Survey nos. 55,56,69,70, 42-46 (part), 54(part), 57(part) 58(part), 59(part), 67(part), and 68 (part), in Colomba village, Sanguem, South Goa

AND WHEREAS it is brought to the notice of this Board that Survey nos.57, 68 and 69, in which you are operating your mine, have been demarcated as 'Private forest' by the Sawant/Karapurkar Committees.

AND WHEREAS vide your Application for Consent to operate submitted to this Board on 13/8/2007, you have failed to disclose that the said Survey nos. 57,68 and 69 ,fall within private forests as demarcated by the Sawant/Karapurkar Committees.

AND WHEREAS, vide Section 2 of the Forest (Conservation) Act, 1980, you are required to obtain prior approval from the Central Government for dereservation of forests or using of forest land for a non forest purpose.

Section 2 (ii) of the Forest (Conservation) Act, 1980, is reproduced herinbelow;

"Section 2. Restriction on the dereservation of forests or use of forest land for non forest purpose _ Notwithstanding anything contained in any other law for the time being in force in a State no State Government or other authority shall make, except with the prior approval of the Central Government, any order directing.

(ii) That any forest land or any portion thereof may be used for any non-forest purpose"

AND WHEREAS the Hon. Supreme Court of India, has in various environmental matters, directed that no non forest activity should be conducted/carried out in forest areas without the prior approval of the Central Government.

AND WHEREAS non-disclosure of information pertaining to the fact that Survey nos. 57, 68 and 69 in which your mine is located, falls within the area demarcated as a private forest by the Sawant/Karapurkar Committees, amounts to an offence under Section 42(1) (f) of the Water (Prevention and Control of Pollution) Act, 1974, and under Section 38 (1) (f), of the Air (Prevention and Control of Pollution) Act, 1981.

NOW THEREFORE in view of the above and in exercise of the powers vested with this Board under section 31 (A) of the Air (Prevention and Control of Pollution) Act,

1981, and under Section 33(A) of the Water (Prevention and Control of Pollution) Act, 1974, **you are hereby directed to Show cause within a period of 15 days from the date of receipt of this notice as to why the Consent to operate granted to your mine unit, namely Gogoro Ou Gulcan Dongor Mine located at T.C. No. 6/49, at survey nos. 55,56,69,70, 42,46 (part), 54(part), 57(part) 58(part), 59(part),67(part),and68 (part), in Colomba village, Sanguem, South Goa , by this Board, vide Orders bearing nos. Water/2534/2008 and Air/1255/2008, dated 11/02/2008, respectively, should not be revoked/recalled, until prior forest clearance is obtained by you.**

FURTHERMORE, in exercise of the powers vested with this Board under section 31 (A) of the Air (Prevention and Control of Pollution) Act, 1981, and under Section 33(A) of the Water (Prevention and Control of Pollution) Act, 1974, the Consent to operate as stated above, which was granted to you for the operation of the said mine, is hereby revoked/recalled until such time as you satisfactorily Show cause within the stipulated time period as stated above.

Directions are further issued to the management of Gogoro Ou Gulcan Dongor Mine, located at T.C. No. 6/49, at Colomba village, Sanguem, South Goa, to **suspend/close the operation of your Mining Unit, in those areas which have been demarcated as 'Private Forest' by the Sawant/Karapurkar Committees, with immediate effect, until further orders.**

Issued on this "day of March 2008 for immediate compliance.

Member Secretary
For the Goa State Pollution Control Board

To,
Shri Hiralal Khodidas
c/o Casa Auto Modema,
near Sanvordekar petrol pump,
Curchorem-Goa. 403 706

CC to:-

1. The Collector,
   South Goa District,
   Margao, Goa ... who is directed to ensure Closure of the mines operations in those areas which have been demarcated as 'Private Forest' by the Sawant/Karapurkar Committees(as stated above)

2. The Chief Electrical Engineer,
   Panaji, Goa ... to disconnect power supply to the mine.

Hiralal Kodidas 208

EXHIBIT-B'

MINE OWNER
CURCHOREM-GOA
403706

Date: 20-03-2008

To,
The Member Secretary,
Goa State Pollution Control Board.
Dempo Towers, Panaji Goa.

Sub: Show Cause Notice
Reference : To Your above notice No.1/23/07-PCB/6618 dated 14/03/2008.

Dear Sir,

We have received your show cause notice referred above dt. 14th March,2008 and in reply to the same we have to respectfully state and submit as under:-

You are aware that Rama Ladu Velip and 2 others have filed Writ Petition before the Hon'ble High Court making some false allegations. The Goa State Pollution Control Board through its member Secretary is Respondent No.6 therein. Issuance of show cause notice when the matter is sub-judice before the Hon'ble High Court on the subject, thus amounts to interference in the course of administration of justice. The show cause notice therefore needs to be forthwith revoked on this count alone

Without prejudice to the above, you have issued the show cause notice without ascertaining true facts, solely on the basis of the allegations which are found to be made in the Writ Petition or probably being mislead on the aspect by some false representation.

Your action of revoking/re-calling the consent granted for the operation of mines until receipt of satisfactory reply is also contrary to the principal of natural justice, equity and fair play. More so because the consent was granted after complying all requisites formalities.

In any event and without prejudice to the above, we deny the allegations of working in private forest identified by Sawant and Karapurkar Committee.

It is on the record with forest department whose officials have visited the mine on several occasions and the Forest Department has itself marked the forest pillars demarcating the private forest boundaries and the working of our mine is outside the demarcated boundaries marked by the forest department.

This fact is even established by the forest department and the department of Mines and geology when they had done joint inspection of the mine on 13/03/2008.

Our mine (Gogoro-Ou-Gulcan Dongor Mine TC no. 6 of 1949) is under operation for almost 49 years producing Manganese. We have started operation in mechanised way for development in Iron ore area from October 2006 onwards and the production started after obtaining environmental clearance

Hiralal Kodidas

MINE OWNER
CURCHOREM-GOA
403706

Sawant and Karapurkar committee has identified only part of survey nos.57/1(P) and 68/1(P) as private forest and the demarcation for the same is done in June 2006. Our lease also includes land bearing survey numbers 42, 43, 46, 54, 55, 56, 58, 59, 67, 69 and 70 of Colomba Village of Sanguem taluka which is not demarcated as private forest. Enclosed herewith is a surface plan in 1:2000 showing demarcation of pillars as private forest and our mine workings are outside the demarcated Area

It is submitted that in the event if we desire to extend mine workings in private forest area in future, necessary permissions will be obtained from the Forest department and any such working will be done only after obtaining lawful permissions.

We have not suppressed (non –disclosed) any information as alleged in your show cause. We repeat and re-iterate that we are not operating in the area demarcated by Sawant-Karapurkar Committee as private forest.

We therefore request your goodself to ignore such false representations given by any individual since all our workings are as per statutory approvals from the authorities.

In view of above, we earnestly request your goodself to forthwith revoke the show cause notice and obliged.

Thanking You,

Yours Faithfully,

Uday Gosalia,
Legal Heir of late Hiralal Kodidas.

Encl: Surface Plan in 1:2000

C.C.TO:

1.The Collector,South Goa District Margao.
2.The Chief Electrical Engineer, Panaji.

RD 210

गोवा राज्य प्रदूषण नियंत्रण मंडळ

Telephone 91-832-2438761, 2438762
2438763, 2438559
Fax No 832-2438761

Parsekar Towers, 1st Floor
EDC Plaza, Patto,
Panaji 403 001, Goa.

EXHIBIT-C'

No. 1/25/07-PCB/ 6985 28/03/08

To,

The Chief Conservator of Forest,
Department of Forest,
Near Old Passport Office
Panaji Goa.

Sub: Clarification regarding operation of the mining activities in Forest area

Sir,

The Board has received reply to the show cause notice from M/s Hiralal Khodidas T.C. No 6/49 Gogoro ou Gulcan Dongor-mine located at Colomba village Sanguem Goa that they are not operating their mine in the private forest as demarcated by Sawant Karapurkar Committee but carrying on mining activities in the non forest area. The mining lease is not being granted forest clearance by your Department. The copy of the reply is enclosed)

In this regard you are kindly requested to clarify whether the mine operator can carry on mining activity near/outside the forest area without clearance when the clearance should be granted for the entire lease as whole. Whether your department has granted forest clearance to the said mine.

Yours faithfully,

(Member Secretary)
For Goa State Pollution Control Board

Petitioners.

211

IN THE HIGH COURT OF BOMBAY AND GOA AT PANAJI

WRIT PETITION NO. 136/2008

Rama Ladu Velip & Ors. ... PETITIONERS

V/s

State of Goa and Ors. ... RESPONDENTS

AFFIDAVIT-IN-REPLY TO THE AMENDED PARAS 12(a), 12(b), 32(XIII), (XIV) and (XV), and para 37(1a) and (1b)

I, Shri Uday H. Gosalia, son of late Hiralal Khodidas Gosalia, major in age, Indian National, residing at Curchorem, Goa, the legal heir of the Respondent no. 11 above named, being conversant with the facts of the case, do hereby on solemn affirmation beg to state and submit as under:

1. I say that the Petitioners have amended the petition in terms of the draft amendment, and inter alia, in terms of prayer 37(1a) sought for an Order, calling for the records of the case and closing and setting aside of the lease approval

order of the Central Government dated 23-1-1990 and renewals thereto and also Government order approving the lease and the Lease Deed dated 7-12-1990, in respect of our Mining Lease bearing No. TC No. 6/49. At the outset, I beg to state that the said relief, as sought for by the Petitioners is barred by inordinate delay and laches, and as such, the Petitioners are not entitled to the said relief on that count alone. That apart, the reliefs sought for are also barred by Law of Limitation, in as much as, the lease which is sought to be challenged is Deed of Lease dated 7-12-1990, and a bare perusal of the amended paras in the petition itself disclose that the said relief is hopelessly barred by Law of Limitation and is liable to be rejected on this count also.

2. That apart, I say that, the provisions of grant of lease are governed by M.M.R.D. Act and M.C.R. Rules 1960, which is a Code in itself, where there is a machinery provided for adjudication of disputes pertaining to the grant of lease, and as a matter of fact, there is a remedy provided to the aggrieved party, as such, the relief sought for by the Petitioners, with respect, cannot be entertained by this Hon'ble Court.

3. Now dealing with the amended paragraphs of the petition. With regard to para 12(a), I say that as a fact, the entries in the Survey Records in Form I and XIV with respect to the property bearing Survey no. 57/1, have been effected after following the due procedure under the Land Revenue Code. Undue reliance sought to be placed by the Petitioners on Form III is misplaced, in as much as, the Survey Records in respect of the Village of Colamba was promulgated somewhere in the year 1970 or thereabout. I say that the identification done by the Sawant and Karapurkar Committee has not been accepted to be correct assessment by the State Government. The issue of identification done by this Committee is still subject to scrutiny. I say that assuming without admitting that the report of the said Committee and/or the identification done by the said Committee is correct, I say that Sawant and Karapurkar Committee identified the area as private forest only in the year 1996 and the same was demarcated at site in the year 2006.

4. I say that ours is a mining concession granted by the erstwhile Portuguese Regime and which was renewed for a period of 10 years from 22-11-87 to 21-11-97.

5. I say that in terms of M.M.R.D. Act and Mining Concession Rules 1960, the State of Goa executed a Deed of Lease on 7-12-1996 which was renewed in compliance with the Provisions of Mining Concession Rules, after application of mind, and after considering the relevant material. It is denied that the order of Central Government dated 23-1-1990 and the Lease Deed dated 7-12-1990 were all issued in contravention of the Forest Conservation Act, 1980 as alleged..

6. I say that the property bearing Survey no. 57/1 and Survey no. 68, were for the first time, identified as private forest in the year 1996, assuming without admitting that the identification done by the said Committee is correct, as such, the plea of the Petitioners, that the lease has been executed in contravention of Forest Conservation Act, is with respect, malafide and made with an intention to stall the mining activities of the Respondent no. 11 for the reasons best known to the Petitioners. It is denied that the lease dated 23-1-1990 cannot be renewed after 21-11-07 as alleged. I say that as stated above ours is a mining

concession, granted in the year 1949 and the lease area is determined by the authorities even prior to identification of private forest by Sawant and Karapurkar Committee. I say that even otherwise, we are not doing any mining activities in the area earmarked as private forest, namely part of the property bearing Survey no. 57 and 68. I say that the Department of Forest identified the area falling in part of the property bearing Survey no. 57 and property bearing Survey no. 68 at site, which demarcation was done by affixation of boundary identification marks which are put in yellow colour. I say that I have produced a surface plan locating the said boundary marks as identified by the Forest Department. I reiterate and categorically state that we are not carrying any mining activity in the area earmarked as private forest, as a matter of fact, the mining plans submitted by us for approval which are valid till 2010 clearly depict the area in which we intend to do mining activities. A perusal of the said plan will make it abundantly clear that we are not intending to do any mining activities in the said area earmarked as private forest. I say that if we decide to carry any activity in the said area identified as private forest, we

shall do so after obtaining necessary permissions under the provisions of Forest Conservation Act, 1980.

7. With regard to contents of para 12(b), I say that the property bearing Survey no. 71 is not part of our mining lease. Mining dumps which are existing in the said property are old dumps which existed in the portion of the said property even prior to the identification of the said property as private forest. In fact, the said dumps existed when the mine was operated manually by us. It is denied that the said property bearing survey no. 71 is used by the Respondent no. 11 to dump mine waste as alleged. I say that the Respondent no. 12 has nothing to do with the lease area as the Respondent no. 12 is only the purchaser of ore. Rest of the contents of para 12(b) which are not admitted may be taken as denied

8. With regard to contents of para 32(XIII), (XIV) and (XV), it is denied that the lease is illegal as that it has been granted in violation of Provisions of F.C.A. 1980 as alleged. I say that the lease executed in favour of late Hiralal Khodidas is executed after complying with all the provisions of law. I say that we are not doing any mining activity in the area earmarked as forest. I specifically deny that the Respondent

no. 11 has violated the mining plan and orders of this Hon'ble Court by dumping mining waste in the area outside the lease areas which are identified as private forest as alleged. I say that we are doing mining activities in the lease area, except for the area identified as private forest, in terms of the approved mining plan and after complying with all the requisition under the law which we are required to follow. I say that the dump existing in Survey no. 71, as I stated above is an old dump, which existed much prior to the identification of the said area as private forest. Rest of the contents of para 35(XIII), (XIV) and (XV) which are not specifically admitted and which are contrary to what is stated hereinabove may be taken as denied.

9. With regard to contents of para 37(1a) and (1b), I say that the Petitioners are not entitled for any of the reliefs sought for therein, in as much as, the reliefs ex-facie are barred by Law of Limitation. That apart, the reliefs sought for by the Petitioners suffer from vice of delay and laches.

10. Rest of the contents of the amended petition which are not specifically admitted and which are contrary to what

is stated hereinabove and contrary to what is stated by me in my Affidavit in reply and in my Affidavit-in-sur-Rejoinder may be taken as denied.

I, the deponent above named do hereby on solemn affirmation beg to state that whatever stated in the foregoing paras are facts true to my own knowledge.

SOLEMNLY AFFIRMED AT PANAJI

ON THIS TH DAY OF APRIL 2008 DEPONENT

Identified by me:

Advocate for Respondent no.11

IN THE HIGH COURT OF BOMBAY AT PANAJI, GOA

Writ Petition No.136/2008

1. Shri. Rama Ladu Velip
2. Shri. A Prabhudesai
3. Goa Foundation ... Petitioners

V/s.

1. State of Goa
2. Union of India, through Secretary
   Ministry of Environment & Forests
   Government of India
3. The Secretary, Ministry of Mines,
   Government of India
4. Chief Town Planner
   Government of Goa
   Town and Country Planning Dept.
5. The Chief Conservator of Forests,
   Forest Department
6. The Goa State Pollution Control Board
7. The Director of Mines & Geology
8. The Regional Controller of Mines
9. The Collector, South Goa,
10. Panchayat of Colomba-Rivona
11. Hiralal Khodidas, Mine Owner
12. Sociedade de Fomento Industrial Pvt. Ltd. ... Respondents

AFFIDAVIT-IN-REPLY ON BEHALF OF RESPONDENT NO.12

I, Francisco Lume Pereira, aged 58 years, married, occupation service, resident of Verna, Salcete, Goa, do hereby on solemn affirmation state and submit as under :

220

1. I say that I am the constituted attorney of the Respondent no.12 and I am conversant with the facts of the case. I say that I have read and understood the contents of the petition and annexures thereto.

2. I say that the Petitioners have made an incorrect statement in para 27 of the petition wherein it is stated that this Respondent is operating the lease instead of Respondent no.11. I say that the Respondent no.12 is not operating the lease. I say that the Respondent no.12 only purchases the ore from Respondent no.11, which is extracted from the said Mine.

3. I say that this fact was already disclosed by the Respondent no.11 in its Affidavit dated 24/03/2008.

4. What is stated above is true to my knowledge based on records.

Solemnly affirmed at Panaji, Goa
on this 22nd day of April, 2008 Deponent

Identified by me :

Advocate for the Respondent no.12

N

221

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

GOA BENCH, AT PANAJI.

WRIT PETITION NO. ~~346~~ 136 of 2008

Rama Ladu Velip & ors. ..Petitioners

v/s

State of Goa and ors ..Respondents

AFFIDAVIT OF THE GOA FOUNDATION

I, Dr. Claude Alvares, Secretary, Goa Foundation, do hereby solemnly affirm as under:

1. I am filing this affidavit to bring on record in the writ petition certain documents that were filed in earlier miscellaneous applications and which are important for final determination of the writ petition.

2. By its affidavit dated 5.4.2008, the Pollution Control Board has informed this Hon'ble Court that the Board by its letter dated 28.3.2008 had requested the Chief Conservator of Forests to clarify whether the mining operations can be carried on outside the forest area without the Forest Clearance. Letter of the Board is at page 210 of the writ petition.

3. It appears that by letter dated 2.3.2008, the Director of Mines and Geology had also already referred the same issue to the Forest Department. Copy of the letter is hereto annexed as ***Exhibit 1***.

4. Subsequently, by his letter dated 17.4.2008, the Dy. Conservator of Forests, replied to the Pollution Control Board that approval from the Central Govt under the Forest Conservation Act is required for approval of any mining lease where forest is involved in the lease. The D.C.F also informed the Board that the lease contains government as well as private forest and that no application for forest clearance had been submitted by the lease holder and no clearance granted either. Copy of D.C.F's letter is hereto annexed as ***Exhibit 2***.

5. On receipt of clarification from the Forest Dept the Board forwarded the letter of the Forest Dept dated 17.4.2008 to the Dept. of Science, Technology and Environment and to the Department of Mines & Geology with the advice that they should take further necessary action in the matter now that the Forest Department had issued a clarification. Copy of the letter dated 17.6.2008 from the Board is hereto annexed as ***Exhibit 3***.

6. In the meanwhile, petitioner pursued the matter of suppression of facts by the respondent mining company with the Ministry of Environment and Forests. By its letter dated 23.4.2008, the petitioner filed an application before the Ministry of Environment and Forest (Respondent No. 2) for cancellation of Environment Clearance of the Respondent mining company in view of the fact that it had suppressed facts relating to the existence of forest cover on the mining lease. Only after pursuing the matter using provisions of the RTI Act, the petitioner received in November 2008 copy of the show cause notice issued by the MoEF to the Respondent No. 11 to respond to the charge of misrepresentation of the facts. Copy of the letter dated 24.10.2008 from the MoEF to the mining company is hereto annexed as ***Exhibit 4***.

7. Despite the clarification received from the Forest Dept. in regard to its own query dated 28.3.2008, the Pollution Board, by its order dated 17.10.2008 granted consent to the Resp.No.11 to operate under the Water Act 1974. The mine is presently being operated under the said consent which is valid till 31.7.2010. Copy of the consent order dated 17.10.2008 is hereto annexed as ***Exhibit 5***.

Solemnly affirmed this,
the day of June 2009

Deponent

Exhibit 1224

No. 90/362/88-HR/6496
Government of Goa
Directorate of Mines & Geology
Udyog Bhavan,
Panaji Goa.

Dated:- 04/03/2008.

To,
The Chief Conservator of Forests,
Panaji Goa.

Sub:- Violation of Hih Court Orders by Hiralal Khodidas mining activities.

Sir,

Kindly refer to your letter No. 6-13-(174)-97-FD/6176 dated 28/02/2008 on the above mentioned subject.

In this connection it may be stated that violation of High Court order as alleged by Goa Foundation that mining operations are being conducted in Sr. No. 57/1 which has been identified as private forest by Sawant/Karapurkar committees is a subject matter to be dealt with by your Department as it involves a non forest activity. The MMDR 1957 and MCR 1960 do not empower this Directorate to take action against the mining lease/mining lease holder as the said mining lease is presently under deemed extension. Any action therefore towards the mining activities or towards illegal using the road passing through Government forest, may be taken at your level.

Yours faithfully.

(J. B. Singh)
Director of Mines & Geology

Exhibit 225

GOVERNMENT OF GOA
Office of the Chief Conservator of Forests,
Forest Department
Panaji Pin 403 001
Ph:- 0832-2224747, 2421414 Fax:- 0832-2224747.

No. 6-13-(174)-2007-FD/291
Dated: 17.04.2008

The Member Secretary,
Goa State Pollution Control Board,
Dempo Towers, 1st Floor,
EDC Plaza, Patto,
Panaji 403 001, Goa.

Sub:- Clarification regarding operation of the mining activities in Forest area.

Sir,

I am directed to refer to your letter no. 1/25/07-PCB/6985 dated 28.03.2008 on the subject cited above and to inform you that approval from the Central Government under the Forest (Conservation) Act, 1980 is required for approval of any mining lease where forest area is involved in the lease. The Hon'ble Supreme Court vide order dated 12.12.1996 in W.P. 2002/95 & Godavarman V/s Government of India & Other wherein it is clarified that

"The term "forest land" occurring in Section 2, will not only include "forest" as understood in the dictionary sense, but also any area recorded as forest in the Government record irrespective of its ownership. This is how it has to be understood for the purpose of Section 2 of the Act. The provisions enacted in the Forest Conservation Act, 1980 for the conservation of forests, and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof"

As per records of this office, Government Forest land as well as forest under private ownership from part of the mining lease 6/49 of M/s. Hiralal Khodidas.

No application for clearance under Forest (Conservation) Act, 1980 has been submitted by the lease holder of mining lease 6/49 situated at Colomba and no clearance has been granted to the said mine by this department.

Yours faithfully,

(D.N.F. Carvalho)
Dy. Conservator of Forests,
Monitoring & Evaluation.

226

Exhibit 3

Phone No. [illegible]
2435563 2435[illegible]
Tel / Fax No. 832-2438528
Email gspcb@sancharnet.in

1st Floor
[illegible] 001

No. 8/25/06-PCB/Vol.V/[illegible] 17/06/08

To,

1. The Director
Dept. of Science, Technology & Env.
Opp. Saligao Seminary
Saligao, Bardez Goa.

2. The Director
Dte. of Mines and Geology
Udyog Bhawan
Panaji Goa.

Sir,

Please find enclosed herewith a letter received from the Dy. Conservator of Forests, with regards to operation of mines in Forest area, pertaining to that of M/s Hiralal Khodidas, T.C. no. 6/49.

In view of the clarification given by the Forest Dept., you are requested to take further necessary action in this matter.

Yours faithfully,

(A.G. Daiwajna)
Member Secretary

Exhibit 4 227

F.No.J-11015/180/2006-IA.II(M)
Government of India
Ministry of Environment & Forests

Paryavaran Bhavan, C.G.O. Complex
Lodi Road, New Delhi-110003
Tel.No.011-24367257
e-mail: w.bharat@nic.in
Dated: October 24, 2008

To

Shri Uday H. Gosalia
Near Savordekar Petrol Pump
Curchorem, District South Goa
Goa - 403 706.

Sub: ***Environmental clearance of Gogoro Ou Gulcan Dongor Mine at village Colomba, in Sanguem Taluk, in South Goa Distt.***

Sir,

It has been informed that the Survey No. 68 and Survey No. 57/1 which falls in your mining lease of your above mentioned mine is a *private forest land,* whereas, as per information provided by you while applying for environmental clearance of the said mine, the same was mentioned as *private waste land.*

You are therefore requested to give your clarification with documental evidence such as revenue records of the State Govt. or any other to substantiate your claim that the lease area is a private waste land as submitted by you earlier. In case no satisfactory reply is received within 15 days from the receipt of this letter, suitable action will be taken for misrepresentation of facts.

Thanking you,

Yours faithfully,

24/10/08

W.Bharat Singh
Dy. Director (IA)

228

Exhibit 5

(GOA STATE POLLUTION CONTROL BOARD)
गोंय राज्य प्रदुशण नियंत्रण मंडळ

Phone Nos: 91-832 2438567, 2438529
2438563, 2438550
Fax No 832-2438528

Dempo Towers, 5th Floor
EDC Plaza, Patto
Panaji 403 001 Goa

No. 5/ 2607 /04-PCB/ 4477

Date. 2/10/08

RENEWAL OF CONSENT TO OPERATE UNDER SECTION 25 OF THE WATER (PREVENTION & CONTROL OF POLLUTION) ACT,1974, AS AMMENDED.

As per the provisions of the Water (Prevention & Control of Pollution) Act. 1974. and the Rules and the Orders made thereunder,
"Renewal of Consent to Operate" is hereby granted to:

SHRI. HIRALAL KHODIDAS
(Gogoro Ou Gulcan Dongor Mine)

(Hereinafter referred as "The Industry")
To operate their Mining Unit located at:-
T.C No. 6/49,
Village Colomba,
Sanguem Taluka, South-Goa

This renewed Consent to Operate their mining industry is subjected to the following terms and conditions:

1. This renewed Consent to Operate is issued in supersession of the earlier renewal of Consent to Operate issued vide letter No 5/2607/04-PCB/5816 dated 11/02/08 is valid upto **31/07/2010.**

2. This renewed Consent is valid for the manufacture/production of:

Sr. No	Product	Maximum Quantity
1.	Iron Ore	4 lakh tons/ annum

3. (i) The rain accumulated mining pit water discharge from the industry shall not exceed **NIL**

(ii) The daily quantity of domestic effluent from the factory shall not exceed **1 K.L.D.**

(iii) **Discharge of Water from Mining Lease:**
The discharge of water from mining lease should confirm to the following standards:

pH	Between	5.5 & 9.0
Suspended Solids	Not to exceed	100 mg/l
Iron	Not to exceed	3 mg / l
Manganese	Not to exceed	2 mg / l
Oil & Grease	Not to exceed	10 mg/l

(iv) The mining industry shall at his own cost get the samples of water discharged from the mining lease area collected and analyse, every month the parameters indicated above from a laboratory recognized by Ministry of Environment and Forest under the Environment Protection Act, 1986 and rules there under and results shall be submitted regularly to this Board.

(v) **Domestic Effluent treatment and Disposal:-**
The domestic wastewater shall also be treated in a properly designed septic tank and discharged on land for percolation through soak pit of adequate size within the factory premises.

4. The company should comply with all the conditions laid down in the Environmental Clearance issued by the Ministry of Environment and Forests, Govt. of India.

5. Adequate facilities shall be provided to the Board staff for collection of the discharge samples.

6. The roads in mining areas shall be sprinkled with water to suppress dust pollution.

7. The mining companies shall provide with wheel washing station with tyre sprinkler and shallow pond with running water.

8. Sufficient filter beds shall be provided around reject dumps for settlement of suspended particles and to prevent siltation.

9. Coursing of water down the slope to the settling ponds.

10. The tailing pond water let out from the beneficiation plants shall meet the standards as specified in the Consent to operate issued by the Board.

11. To prevent siltation of rivers/ nallahs/ fields catch drains and siltation ponds should be constructed. The water collected should be utilized for watering the mine area, roads and green belt development. Garland drains to be provided around the reject dumps.

12. Hydro geological studies to be carried out (quality and quantity) including impact of mining on the hydro geology (pre monsoon, monsoon and post monsoon)

Member Secretary
Goa State Pollution Control Board

230

13. The mining companies should meet the water requirements of the nearby villages.

14. Regular monitoring of ground water level and quality should be carried out in all seasons.

15. The companies should submit the pumping schedule for pumping the rain accumulated water from the mining pit.

16. The mining industry shall strive to implement suitable conservation measures to augment ground water resources wherever possible in the area.

17. The water pumped from the mining pit should be stored in re-charging ponds for the benefit of the villagers in the surrounding areas.

18. The company should maintain a pumping Log book in the following format:

Sr. No.	Capacity of the pump (litres/min)	Date	Start time	Start time R.L	End time	End time R.L	Duration of pumping (in minutes)	Qty. of water pumped in KLD	Remarks

19. The company should submit details regarding production of iron ore produced and the over burden generated in a month by 10th of the succeeding month.

20. The mining company shall obtain Environmental Clearance / Consent to Operate for the loading facilitates/ jetties utilised for transportation of iron ore through barges.

21. The company should not stack their ore/ and or ore over burden in the close vicinity of water bodies like river lakes, streams (perinial or otherwise)

22. Any up-set condition in any plant of the factory, which is likely to result in, increased effluent discharge and /or violation of the standards stipulated above shall be immediately reported to the Board office.

23. Reliable flow meter shall be installed to maintain record of water consumption per day. The records so maintained shall be made available to the Board officials whenever required.

24. The Board shall be forthwith informed of any accident or unforeseen event involving discharge of any poisonous, noxious or polluting matter into a stream or well or on land and the action initiated to curb the resulting pollution.

Member Secretary
Goa State Pollution Control Board

25. A good house-keeping shall be maintained within the mining lease area. 231

26. The mining company should carry out plantation in 33% of the mining lease area.

27. All the Solid wastes arising in the premises shall be properly classified and disposed off to the satisfaction of the Board by:
    i) Landfill, incase of inert materials, care should be taken to ensure that the material does not give rise to leachate which may percolate into ground water or carried away with storm run-off.
    ii) Controlled incineration wherever possible in case of combustible organic matter.
    iii) Composting in case of bio degradable material
    iv) As per the Authorization issued by this Board in case of Hazardous waste.

28. An application in prescribed form along with the prescribed fees for renewal of Consent shall be submitted before the expiry of validity of this renewed Consent. An application for renewal of Consent submitted after expiry of the validity shall accompany with penalty of 50% of the Consent fees in addition to the prescribed consent fees.

29. **The Industry should submit an Environmental Statement in Form V for the Financial Year April to March by 30th September of the succeeding year.**

30. The applicant shall comply with the provisions of the Water (Prevention & Control of Pollution) Cess Act, 1977, as amended (to be referred as Cess Act) and the Rules there under:
    The applicant shall submit Water Consumption statement every month so as to reach this Office on or before the 5th of the succeeding month in the prescribed form and pay the Cess as specified under Section 3 of the Cess Act.

31. This Consent is granted without any prejudice to any of the permission(s) required under any law, by laws and regulations in force.

32. ***The Environmental Clearance granted to this mining lease by the Ministry of Environment and Forests does not mention Forest Area within the lease. However, the Sawant and Karapurkar Committee has identified part of the area of the mining lease as private forest within the lease. This consent is valid only in those areas of the lease which is not identified as a private forest. No activity should be carried out in the area identified as private forest without obtaining prior Clearance as prescribed under the Forest Conservation Act.***

Member Secretary
For GOA STATE POLLUTION CONTROL BOARD

To,
Shri Hiralal Khodidas,
C/o Casa Auto Moderna,
Near Sanvordekar petrol pump, Curchorem-Goa 403706
Copy to:- Concerned File & Guard File

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

GOA BENCH, AT PANAJI.

WRIT PETITION NO. 136 of 2008

Rama Ladu Velip & ors. ..Petitioners

v/s

State of Goa and ors ..Respondents

AFFIDAVIT OF THE GOA FOUNDATION

I, Dr. Claude Alvares, Secretary, Goa Foundation, do hereby solemnly affirm as under:

1. I am filing this affidavit to bring on record in the writ petition certain additional documents which will be relied upon by the petitioners for final determination of the writ petition.

2. I am annexing at ***Exhibit A*** list of mining leases approved for ten years and renewed for another period of ten years in respect of mining leases in the State of Goa. This information has been culled by me from documents produced by the Department of Mines and Geology pursuant to requests made by me under the RTI Act.

3. The question whether only an environment clearance can be relied upon to commence work on those leases where forest clearance is also required is to be adjudicated in the petition. The Forestry Guidelines of the MoEF themselves are quite categorical in this respect. I am annexing herewith for

the record as ***Exhibit B*** a xerox copy of Chapter 3 of the publication *Handbook of Forest Conservation Act, 1980, Forest Conservation Rules 2003 – Guidelines and Clarifications* published by the Ministry of Environment & Forests.

Solemnly affirmed this,
the day of June 2009

Deponent

NORMA 235

HANDBOOK

OF

Forest (Conservation) Act, 1980
(With Amendments made in 1988)

Forest (Conservation) Rules, 2003
(With Amendments made in 2004)

Guidelines & Clarifications
(June, 2004)

GOVERNMENT OF INDIA
Ministry of Environment & Forests
New Delhi.

PART - I

CHAPTER I

Application of Forest (Conservation) Act, 1980

1.1. Definition

(i) The term 'Forest land' mentioned in Section 2 of the Act refers to reserved forest, protected forest or any area recorded as forest in the government records. Lands which are notified under Section 4 of the Indian Forest Act would also come within the purview of the Act. (Supreme Court's Judgement in NTPC's case). It would also include "Forest" as understood in the dictionary sense (Supreme Court order dated 12.12.1996 in WP No. 202/1995-Annexure-I). All proposals for diversions of such areas to any non-forest purpose, irrespective of its ownership, would require the prior approval of the Central Government.

Clarification : -The term "forest" shall not be applicable to the plantations raised on private lands, except notified private forests. However, felling of trees in these private plantations shall be governed by various State Acts and Rules. Felling of trees in notified private forests will be as per the working plan/management plan duly approved by Government of India.

(ii) The term "tree" for the purpose of this Act will have the same meaning as defined in Section 2 of the Indian Forest Act, 1927 or any other Forest Act which may be in force in the forest area under question.

1.2 Clarifications

(i) The cases in which specific orders for de-reservation or diversion of forest areas in connection with any project were issued by the State Government prior to 25.10.1980, need not be referred to the Central Government. However, in cases where only administrative approval for the project was issued without specific orders regarding dereservation and/or diversion of forest lands, a prior approval of the Central Government would be necessary.

(ii) Harvesting of fodder grasses, legumes etc. which grow naturally in forest areas, without removal of the tree growth, will not require prior approval of the Central Government. However, lease of such areas to any organisation or individual would necessarily require approval under the Act.

(iii) The forest policy, as well as provisions of the Forest (Conservation) Act, 1980, do not interfere in any manner or restrict the Nistar, recorded rights, concessions and privileges of the local people for bonafide domestic use as granted by the State Governments under Indian Forest Act, 1927 or State Forest Acts/Regulations. However, it has to be ensured that while allowing such rights, concessions and privileges to be exercised, the right holders do not resort to felling of trees or break up the forest floor so as to procure stones, minerals, or take up constructions, etc. The forest produce so obtained shall not be utilised for any commercial purposes.

The collection of such forest produce should be manual and should be transported through local modes or transport like bullock carts, camel carts, etc. and no mechanised vehicles shall be allowed to be used in transporting such forest produce and only in exceptional cases with the approval of concerned Divisional Forest Officers, tractors mounted with trolley may be used.

Clarification :- The Supreme Court has passed an order on 14.02.2000 restraining removal of dead, diseased, dying or wind-fallen trees, drift wood and grasses etc. from any National Park or

(a) The species to be planted are indigenous to the area in question; and
(b) Such planting activity is part of an overall afforestation programme for the forest area in question.

1.5 **Tusser Cultivation**

(i) *Tusser cultivation in forest areas by the tribals as a means of their livelihood without undertaking monocultural Asan or Arjun plantations shall be treated as a forestry activity. Therefore, no prior approval of the Central Government under the Act is necessary.

(ii) *Tusser cultivation in forest areas for which specific plantation of Asan or Arjun trees are undertaken for providing host trees to the silk cocoons shall be treated as forestry activity not requiring prior approval of the Central Government provided such plantation activity does not involve any felling of existing trees; provided further that while undertaking such plantations, at least three species are planted, of which no single species shall cover more than 50% of the planted area.

(iii) Plantation of mulberry for silkworm rearing is a non-forestry activity attracting the provisions of the Act.

1.6 **Mining**

(i) Mining including underground mining is a non-forestry activity. Therefore, prior approval of the Central Government is essential before a mining lease is granted in respect of any forest area. The Act would apply not only to the surface area which is used in the mining but also to the entire underground mining area beneath the forest. A renewal of an existing mining lease in a forest area also requires the prior approval of the Central Government. Continuation or resumption of mining operation on the expiry of a mining lease without prior approval would amount to contravention of the Act.

(ii) The advice of the Ministry of Law, Government of India in regard to the Supreme Court Order in Civil Appeal No.2349 of 1984 dated 7.5.1985 is at Annexure-III.

(iii) Boulders, bajri, stone, etc., in the riverbeds located within forest areas would constitute a part of the forest land and their removal would require prior approval of the Central Government.

1.7 **Clarification on Sub-clause 2(iii) of the Act**

(i) The Sub-clause shall not be attracted when any forest land or any portion thereof is assigned to any authority, corporation, agency or any other organisation wholly owned, managed or controlled by the concerned State/Union Territory Government and/or the Central Government. Such Government owned, managed or controlled authority/corporation/agency, which has been assigned such forest land shall not reassign it or any part thereof to any other organisation or individual.

(ii) Any scheme or project which involves assignment of any forest land by way of lease or similar arrangement, for any purpose whatsoever, including afforestation, to any private person or to any authority/agency/organisation not wholly owned, managed or controlled by the Government (such as private or joint sector ventures) shall attract the provisions of this sub-clause.

(* Replaced by new guidelines issued vide MoEF letter No. 2-1/2003-FC (Pt-III) dated 07.06.2004 – see appendix-19)

Clarification : The provisions of this Section are applicable to the cases where the State Government or any authority passes any order for permitting activities covered by Section 2 of the Forest (Conservation) Act, 1980 without prior approval of the Central Government. Cases of illicit felling/encroachment/illegal mining, etc. have to be dealt under the provisions of the Indian Forest Act, 1927, State Forest Acts, Environment (Protection) Act, 1986, etc.

1.10 Diversion of Forest Land for Regularisation of Encroachments

(i) Detailed guidelines issued in this regard vide this Ministry's letter No.13-1/90-F.P.(1) dated 18.9.90 shall be strictly followed. These are included in Annexure IV.

(ii) The State Governments/UT Administrations may send the proposals as follows:-

(a) A consolidated proposal for the whole State in the prescribed application form.

(b) Detailed information as per the enclosed Table/format - Annexure - IV- A. Division wise proposals, maps, names of encroachers, etc. should be kept ready at Division level, which may be made available whensoever required for inspection and need not be appended with the consolidated proposal.

(c) Detailed compensatory afforestation scheme with areas proposed for raising compensatory afforestation Division-wise, phased planning, fund requirement, commitment of the State Government to provide funds for the purpose, etc. Maps of proposed areas for compensatory afforestation should be kept already at Division level, which may be made available whensoever required for inspection.

(d) A time plan for eviction of ineligible encroachers.

1.11 Review of Disputed Claims over Forest Land, arising out of Forest Settlement

Detailed guidelines issued in this regard vide this Ministry's No.13-1/90-F.P.(2) dated 18.9.90 shall be strictly followed. These are included in Annexure IV-B.

1.12 Disputes Regarding Pattas/Leases/Grants involving Forest Land - Settlement thereof

Detailed guidelines issued in this regard vide this Ministry's No.13-1/90-F.P.(3) dated 18.9.90 shall be strictly followed. These are included in Annexure IV-C.

1.13 Conversion of Forest Villages into Revenue Villages

Detailed guidelines issued in this regard vide this Ministry's No.13-1/90-F.P.(5) dated 18.9.90 shall be strictly followed. These are included in Annexure IV-D.

(vii) In order to ensure that the forest lands are diverted only for site specific projects, that too where it is inescapable, so that the ecological balance of the country is well protected, the respective State/UT Administration, should give due consideration to the following and should submit proposal accordingly after detailed scrutiny.

1. **Diversion of forest land within Reserve Forest:-** As per the State of Forest Report, 2001 published by Forest Survey of India, out of 76.84 million hectare of total forest area, roughly 55% is Reserve Forest area. These forests are considered as good forests with plenty of bio diversity and it is necessary too keep these forests intact. **As such, any proposal for diversion in Reserve Forest should be very carefully examined and detailed justification after exhausting all alternatives for locating the project in this forest area should be given while forwarding the proposal.**

2. **Regarding Mining proposals:-** It has been observed by the Central Government that a large number of proposals relating to mining are submitted which are located deep inside the forest areas. Locating such proposals inside makes entire forest area vulnerable due to ancillary activities like construction of approach road, movement of vehicles and coming up of colonies for the workers. It has also been observed that whatever area has already been opened up for mining of different minerals, have not been worked and reclaimed systematically and scientifically. There is a tendency to open up new pits without exhausting the existing once to its full depth/potential. Therefore, Ministry has decided that whenever a proposal for fresh mining is submitted, a brief profile of the lessee/company should be submitted giving details of their existing mining leases in the State with their capacity of production, the present level of average annual production, location of these pits and the status of reclamation of forest land that are exhausted of minerals. Alongwith this, the State Government should also submit details of all other mining leases for that particular mineral with their capacity and average annual production and projected future requirements. They should fully justify the necessity of opening new mining leases for that particular mineral. Mining plan should be approved by the competent authority for concerned minerals e.g. **for coal it should be approved by Controller of Coal and for major minerals by IBM and so on.**

Even in the case of renewals, it has been observed that the State Governments are not giving complete picture of mining activity in the particular block or compartment of the forest block. Whenever such proposal is sent, complete details of existing or proposed leases in that particular forest area with their present status should be indicated on **Survey of India topo-sheet on 1:50,000 scale.**

3. **Diversion for non-site specific projects:-** A large number of proposals for diversion of forest land for non-site specific projects like industries, construction of residential colonies, institutes, disposal of fly ash, rehabilitation of displaced persons, etc. are received by the Central Government. Attention is drawn to items 1(iv) and 8 of the Form "A" in which the proposal is to be submitted by the State Government. In these columns, justification for locating the project in the forest area giving details of the alternatives examined and reasons for their rejection has to be furnished. Normally, there should not be any justification for locating non site-specific projects on forest land. Therefore, the State Government should scrutinize the alternatives in more details and must give complete justification establishing its in-escapability for locating the project in forest area.

4. It has been observed that in respect of many proposals, the Central Government receives representation from NGOs/local public bodies against the diversion of forest land or loss of forest land, environment and ecological grounds. It is felt that it is essential to have the opinion

(b) Extent of forest land diverted so far under Forest (Conservation) Act 1980 in the concerned district/State.

(c) Extent of forest land diverted for same/similar purpose/project so far in the concerned district/State.

(d) Progress of compensatory afforestation in the concerned district/State under earlier forest clearances.

However, the States/UTs may submit the above information on a consolidated, calendar year basis every year as per the proforma at Annexure-VII so as to avoid duplication/reiteration in each proposal. (No.11-30/96-FC (Pt) dated 28.06.2001)

(vii) **Mining proposals** in forest areas in respect of coal and other major minerals should be accompanied with the following documents:-

1 <u>In respect of Underground mining in stratified deposits in forest areas</u>

The mining plan in stratified deposits in forest areas should include the predicted subsidence, slope and strain values and their impact on forests and surface and their mitigation. The maximum tensile strain of 20 mm per metre and thereby the surface cracks of width of about 200 - 300 mm is to be permitted in forest areas. Accordingly, the mine plans should be made to restrict the subsidence movement within these limits with the provision of mitigation measures. All mining plans in respect of coal and other major minerals should be accompanied with numerical modelling in 3-Dimension for subsidence prediction through an expert mining engineer/organisation to assess long term damage on surface vegetation due to underground mining preferably from Banaras Hindu University; ISM, Dhanbad; any of the IITs located at Delhi, Kanpur, Mumbai, Kharagpur, Madras, Roorkee & Guwahati, or M/s CMRI alongwith the mitigation measures suggested by them should be submitted along with the proposal. The surface layout of mining area should be designed so as to use minimum possible land, and wherever feasible, the surface facilities should be planned over non-forest areas.

2. <u>Open cast mining in forest areas</u>

In respect of open cast mining in forest areas, a comprehensive study of solid waste management and land reclamation with post mining land use plan and de-commissioning should be made and the plan should envisage the minimum possible overburden dumping outside the mine. In place where the non-forest land is available, the external dumping of the overburden should be planned on non-forest land. **Special attention should be given to top-soil and sub-soil handling and management.**

3 <u>Use of Fly ash in reclamation of open cast mines</u>

Wherever feasible, depending upon the characteristic of fly ash and its availability nearby, use of fly ash in reclamation of open pits should be looked into and planned. Fly ash for this purpose should be characterised from the point of view of leaching potential with special reference to heavy metals.

While forwarding the proposals, the State Government may also bear in mind the para 7.13 of The National Mineral Policy, 1993 (For non-fuel & non-atomic mineral) wherein it states that " — Mining operation shall not ordinarily be taken up in identified ecologically fragile and biologically rich areas.....".

planted up with trees and these lands are not yet notified as protected forests will not attract the provisions of Forest (Conservation) Act, 1980 for the purposes of widening or expansion or re-alignment. However, the concerned agency will seek permission under local laws, if any, from appropriate authority.

(ii) Such lands which were acquired by the above departments and the vacant areas were subsequently planted and notified as protected forests for management purposes will need approval from the Central Government under Forest (Conservation) Act, 1980. The user agency will submit the proposal in the prescribed format through the State Forest Department to the concerned Regional Office of the Ministry. The Regional Offices shall be competent to finally dispose of all such proposals irrespective of the area, preferably within 30 days from the date of receipt of the proposal. While issuing the approval, in place of normal provision for compensatory afforestation, the Regional Offices will stipulate a condition that for every tree cut at least two trees should be planted.

(iii) However, if the decision is not ordered by the concerned Regional Office within 30 days of the receipt of fully completed application, the Central Government/State may proceed with the widening/modernisation under intimation to the local State Forest Department and Central Government.

Clarification : This guideline is applicable to only such projects, where plantations have been raised on the lands acquired by the user agency and subsequently notified as Protected Forest. This guideline will not be applicable if the forest land involved is reserved/protected forests belonging to the Forest Department .

2.6 Cost-benefit Analysis

(i) While considering proposals for dereservation or diversion of forest land for non-forest use, it is essential that ecological and environmental losses and socio-economic distress caused to the people who are displaced are weighed against economic and social gains.

(ii) Annexure VI (a) details the types of projects for which cost-benefit analysis will be required. Annexure VI (b) lists the parameters according to which the cost aspect will be determined, while Annexure VI (c) gives the parameters for assessing the benefits accruing.

(iii) A cost-benefit analysis as above should accompany the proposals sent to the Central Government for clearance under the Act.

2.7 Plan for Rehabilitation of Oustees

(i) If the project involves displacement of people, a detailed Rehabilitation Plan shall be submitted along with the proposal for diversion of forest land. The Scheduled Tribe and Scheduled Caste population should be separately considered, and a plan for their rehabilitation should be in consonance with their socio-economic, cultural and emotional lifestyle.

(ii) The Government of India do not allow diversion of forest land for rehabilitation of people. However, such diversion may be considered as a special case, if diversion of forest land is essentially required for the rehabilitation of persons belonging to Scheduled Tribes, Scheduled Castes and other people who may have to be shifted from the core zone of a national park or reserve.

CHAPTER 3

Compensatory Afforestation

3.1 Compensatory Afforestation

(i) Compensatory afforestation is one of the most important conditions stipulated by the Central Government while approving proposals for de-reservation or diversion of forest land for non-forest uses. It is essential that with all such proposals, a comprehensive scheme for compensatory afforestation is formulated and submitted to the Central Government.

(ii) The comprehensive scheme shall include the details of non-forest/degraded forest area identified for compensatory afforestation, map of areas to be taken up for compensatory afforestation, year-wise phased forestry operations, details of species to be planted and a suitability certificate from afforestation/management point of view alongwith the cost structure of various operations.

(iii) Sometimes the compensatory afforestation schemes are being submitted at such a cost structure, which is at variance with the cost norms for the same area. The compensatory afforesation schemes no doubt has to be site specific and thus per hectare rate will vary according to species, type of forest and site. In this regard, it has been decided that henceforth the compensatory afforestation schemes which are being submitted alongwith the proposals for forestry clearance, must have technical and administrative approvals form the compentent authority and should be in conformity with cost norms based on species, type of forest and site.

3.2 Land for Compensatory Afforestation

(i) Compensatory afforestation shall be done over equivalent area of non-forest land.

Clarification:- As a matter of pragmatism, the revenue lands/zudpi jungle/chhote/bade jhar ka jungle/jungle-jhari land/civil-soyam lands and all other such categories of lands, on which the provisions of Forest (Conservation) Act, 1980 are applicable, shall be considered for the purpose of compensatory afforestation provided such lands on which compensatory afforestation is proposed shall be notified as RF under the Indian Forest Act, 1927.

(ii) As far as possible, the non-forest land for compensatory afforestation should be identified contiguous to or in the proximity of Reserved Forest or Protected Forest to enable the Forest Department to effectively manage the newly planted area.

(iii) In the event that non-forest land of compensatory afforestation is not available in the same district, non-forest land for compensatory afforestation may be identified anywhere else in the State/UT as near as possible to the site of diversion, so as to minimise adverse impact on the micro-ecology of the area.

(iv) Where non-forest lands are not available or non-forest land is available in less extent to the forest area being diverted, compensatory afforestation may be carried out over degraded forest twice in extent to the area being diverted or to the difference between forest land being diverted and available non-forest land, as the case may be.

(v) The non-availability of suitable non-forest land for compensatory afforestation in the entire State/UT would be accepted by the Central Government only on the Certificate from the Chief Secretary to the State/UT Government to that effect.

Central projects in their respective States as indicated by the Chief Secretaries of these two States in the meeting of Committee of Secretaries held on 15-11-1996.

(d) The pool of degraded forest land in Madhya Pradesh and Rajasthan will also be available for the Central Government projects of other States if the concerned State Government fail to identify the requisite land, as mentioned at (a) above, for compensatory afforestation in its own territory within one month of the submission of the proposal to the State Government

(e) While identifying the pool of degraded forest land, blank forest lands in reserved forests in compact /sizeable blocks should be identified as first priority as "plantation bank". An appropriate treatment plan with choice of species should be prepared by the beneficiary States. Only when such areas are not available, the choice of compensatory afforestation will fall on protected, unprotected forests and unclassified forests in declining order of priority.

(f) The Nodal Officer (Forest Conservation), State Forest Department will identify the pool of such degraded forest lands in consultation with concerned Chief Conservator of Forests (C), Regional Offices of the MOEF.

Clarification : The provisions of the above guideline would be applicable to only Central Sector projects and not on State Sector projects which are being undertaken by Central PSUs on turnkey basis. In such cases, Compensatory Afforestation on equivalent non-forest land/a certificate of Chief Secretary regarding non-availability of equivalent non-forest land anywhere in the State shall be insisted upon.

3.3 **Elements of Schemes for Compensatory Afforestation**

(i) The scheme for compensatory afforestation should contain the following details :-

(a) Details of equivalent non-forest or degraded forest land identified for raising compensatory afforestation.
(b) Delineation of proposed area on suitable map.
(c) Agency responsible for afforestation.
(d) Details of work schedule proposed for compensatory afforestation
(e) Cost structure of plantation, provision of funds and the mechanism to ensure that the funds will be utilized for raising afforestation.
(f) Details of proposed monitoring mechanism.

3.4 **Lands identified for Compensatory Afforestation to be Transferred to the Forest Department:**

(i) Equivalent non-forest land identified for the purpose are to be transferred to the ownership of the State Forest Department and declared as reserved/protected forests, so that the plantation raised can be maintained permanently. The transfer must take prior to the commencement of the project.

(ii) The compensatory afforestation should clearly be an additional plantation activity and not a diversion of part of the annual plantation programme.

(iii) In each case where the afforestation target is over 500 hectares in plains, and 200 hectares in hills, a Monitoring Committee shall be established with a nominee of the Central Government to oversee that the stipulations, including those pertaining to compensatory plantation are carried out.

CHAPTER 4
Some Clarifications

4.1 Delegation of Powers

(i) All proposals involving diversion/dereservation of forest land up to 40 hectares, and proposals for clearing of naturally grown trees in forest area or portion thereof shall be sent by the concerned State/UT Government to the concerned Regional Office of MOEF.

(ii) Chief Conservator of Forests of the concerned Regional Office shall be competent to finally dispose of all proposals (including decision regarding violation of Act) involving diversion/dereservation for forest land up to 5 hectare , except in respect of proposals for regularisation of encroachments and mining (including renewal of mining leases). Similarly, proposals involving clearing of naturally grown trees in forest area or portion thereof for reforestation shall also be finally disposed of by the Chief Conservator of Forests of the concerned Regional Office, subject to guidelines/instructions issued in this regard (refer to para 1.8) and any other instructions issued from time to time.

(iii) In the absence of Chief Conservator of Forests, these powers shall be exercised by the concerned Conservator of Forests of the Regional Office in case the post of Chief Conservator of Forests is vacant due to transfer, long leave, etc. (In respect of Regional Office at Chandigarh, these powers shall be exercised by Conservator of Forests of the Regional Office of Chandigarh).

(iv) A list of cases finally disposed of and a list of cases rejected along with reasons thereof for rejection would be required to be sent every month to the MOEF by the Regional Office.

(v) (a) In respect of proposals involving diversion of forest area above 5 hectares and up to 40 hectares and all proposals for regularisation of encroachments and mining up to 40 ha., the proposals shall be examined by the Regional Chief Conservator of Forests/Conservator of Forests in consultation with an Advisory Group consisting of representatives of the State Government from Revenue Department, Forest Department, Planning and/or Finance Department and concerned Department whose proposal is being examined. The views of the Advisory Group shall be recorded by the Regional Chief Conservator of Forests and along with the same, the proposal shall be sent to Secretary, MOEF for consideration and final decision. It is to be clarified that views of this Advisory Group in no way shall be binding while deciding the proposal. The meeting of the Advisory Group may be held at the State Capital. The proposal will not be deferred for want of quorum.

(b) The meeting of the State Advisory Group (SAG) will normally be held once in a month at concerned State Capital. The Regional Chief Conservator of Forests shall act as Chairman of the Advisory Group and Nodal Officer may be nominated to work as Member Secretary of the State Advisory Group

(c) State Government may take immediate steps to nominate representatives of the State Government not below the rank of Joint Secretary for the Advisory Group. Nodal Officer may be nominated to work as Member Secretary of the State Advisory Group.

(d) The details of the officers alongwith addresses, telephone number, etc. may be directly communicated to the concerned Regional Chief Conservator of Forests under intimation to this Ministry to facilitate early processing of the proposals by the Advisory Group.

be infructuous if diversion of forest land involved is not approved. It has, therefore, been decided that if a project involves forest as well as non-forest land, work should not be started on non-forest land till approval of the Central Government for release of forest land under the Act has been given.

4.5 Diversion for Construction of Houses

(i) On a proposal for construction of houses, the late Prime Minister had observed : "Destruction of our forest has already caused great damage to our environment. Therefore, I am not at all in favour of use of forest land for construction of houses .... . The State Government should find other land for such purposes."

The Central Government will not entertain any proposal for diversion of forest land for construction of residential or dwelling houses.

(ii) Diversion of forest land for construction of other buildings also will not be normally considered. However, such diversion may be allowed for construction of schools, hospitals/dispensary, community halls, cooperatives , panchayats, tiny rural industrial sheds of the Government etc., which are to be put up for the benefit of the people of that area, but such diversion should be strictly limited to the actually needed area and further it should not exceed one hectare in each case.

4.6 Extraction of Minor Minerals from the River Beds

(i) Extraction of minor minerals like boulders, bajri, stone, shell, etc. from the river beds shall not be permitted if the river bed is in a national park or a wildlife sanctuary unless such extraction is for the benefit of the forest or wildlife.

(ii) There shall be no labour camp in the forest area for the labour involved in the extraction work.

(iii) Extraction of minor minerals shall be from the middle of the river bed after leaving one fourth of the river bed on each bank untouched.

4.7 Safety Zone for Mining Operations

(i) **Forest area required for safety zone for mining operations should not be part of the forest area proposed for diversion. However, it should be indicated separately in the proposal.** Such area will have to be fenced at the cost of the project authority. Further, project authority will have to deposit funds with the Forest Department for the protection and regeneration of such safety zone area and also will have to bear the cost of afforestation over one and a half times of the safety zone area in degraded forest elsewhere.

(ii) Safety zone area calculation in the proposal should be done taking 7.5 metres strip of the forest land all along the outer boundary of the mining lease area. If it is a cluster proposal, then the outer boundaries of the cluster should be taken as the safety zone.

(iii) In order to safeguard public roads, forest roads, natural streams and nallahs located in mining lease areas, it is necessary that no mining activities should be carried out up to certain reasonable extent. This area can also be included in the safety zone calculation and provision for its fencing and regeneration should be made in the proposal.

feedback particularly violation of the Forest (Conservation) Act, 1980 for further processing of the proposal

(iv) In respect of proposals involving renewal of leases, the Regional Offices of the Ministry should submit a copy of the report of the latest monitoring done (one year before the expiry of lease period) along with the abstract of monitoring report of the project during the lease period specially highlighting the conditions which have not been fulfilled, with complete details of the reasons for not fulfilling. The conditions which have been complied with should also be highlighted with the quality of performance of the project authorities with short note on the desirability of renewal of lease and other recommendations

4.11 **Complete Details**

While forwarding the proposal to the Central Government, complete details in all aspects of the case should be given. Incomplete and deficient proposal will not be considered and will be returned to the State Government in original.

4.12 **Specific Time Limits**

(i) To ensure speedy disposal of proposal of proposals, specific time limits have to be laid down for disposal of references at various levels. Efforts should be made to dispose of each reference at the State Governments level within a maximum period of 90/60 days as per the Forest (Conservation) Rules, 2003. Specific instructions may be issued in this regard to officers at all levels.

(ii) Cases which are complete in all respects shall be disposed of within 60 days by the Central Government.

4.13 **Quarterly Progress Report (QPR)**

A Monitoring Cell has been created in the Ministry of Environment & Forests, which shall be looked after by Director (FC) and an Asstt. Inspector General of Forests. In all cases, the States/UTs will submit quarterly progress reports to the Director(FC) regarding the implementation of the stipulations laid down by the Government of India while approving the project especially in respect of compensatory afforestation and future clearances of project of the States and Union Territories concerned will depend upon the fulfillment of stipulations and the achievements in compensatory afforestation. Monitoring Cell will also monitor the time taken by the authorities in processing the case at different levels of the State Government as well as Central Government.

Along with quarterly progress report, a statement in tabular form as given below should also be submitted which will give status of the total number of proposals in the State :

(a) Name of State
(b) Total no. of proposals submitted since 1980
(c) No. of proposals finally approved
(d) No. of proposals given Stage I approval
(e) No. of proposals rejected
(f) No. of proposals withdrawn by State Govt.
(g) No. of proposals closed for want of information
(h) No. of proposals pending with Central Govt.
(i) No. of proposals pending with State Govt. for want of information
(j) Remarks

Extract from Chapter 4 : Some Clarifications

likely to be further delayed after these violations/non-compliance are to be received only from the State Govt. level. . In case of gross violations, for which delay/time lag is crucial, such reports from territorial CCF/CF shall also be entertained by Government of India

(viii) The Nodal Officer shall submit a monthly report on all the complete applications received by the State Government and their status of processing in the State. The report shall be sent to the Regional Office concerned and the Assistant Inspector General of Forests (FC)/Director in charge of the monitoring cell.

4.16 Lease period for mining leases

(i) The approval under the Forest (Conservation)Act, 1980 for diversion of forest land for grant/renewal of mining leases shall normally be granted for a period co-terminus with the period of mining lease proposed to be granted under MMDR Act, 1957 or Rules framed thereunder, but not exceeding 30 years. While recommending cases for approval under the FC Act, the user agency/ State Government shall indicate the period for which the mining lease is proposed to be granted/renewed under MMDR Act or Rules framed thereunder. However, in the event of non compliance of stipulations to the satisfaction of the MOEF, the clearance accorded may be summarily withdrawn.

(ii) The conditions stipulated while giving approval under the Forest (Conservation)Act, 1980 for diversion/renewal of forest land for mining purposes shall be renewed/monitored every five years. If it is found that the lessee has violated or is not complying with the stipulated conditions, then the approval given under the Forest (Conservation) Act, 1980 shall be revoked. Concerned Chief Conservators of Forests(C), Regional Offices of the Ministry will issue a certificate regarding fulfillment of these conditions after carrying out the monitoring. These guidelines shall be applicable retrospectively for all the mining leases which have more than five years of lease period left.

(iii) The Regional Office will monitor the main parameters/conditions of formal approval as frequently as possible at least once in a year. At least once in five years a comprehensive monitoring as to the effect of mining on air and water pollution will also be carried out. Regional Offices should send such reports/certificates in respect of the monitoring mechanism indicated above to this Ministry, so that a view can be taken on continuation of mining lease beyond five years.

4.17 Renewal of Mining Lease - Temporary Working Permission

If an application for renewal of mining lease, complete in all respects, has been submitted by the user agency, to the State Government one year before the expiry of the existing lease period, but the State Government has not been able to process and forward the proposal for approval of the Central Government, till the date of the expiry of existing lease period; in such cases, the Central Government on an application from the user agency, may grant the user agency, temporary working permission in the already broken up area till a final decision is taken on the proposal.

4.18 In respect of proposals related to renewal of mining leases, the Central Government would grant one year working permission alongwith in-principle approval, for already broken up areas so as to enable the State Government to comply with the conditions. This period can be extended by one more year subject to submission of reasonable progress report from the State Government as regards to the steps taken to comply with the stipulated conditions.

248

IN THE HIGH COURT OF BOMBAY AND GOA

AT PANAJI

WRIT PETITION NO. 136 OF 2008

Rama Ladu Velip & Ors. ... PETITIONERS

v/s

State of Goa & Ors. ... RESPONDENTS

MAY IT PLEASE YOUR LORDSHIP

The Respondent no. 11 begs to state and submit as under:

1. I have read the Affidavits dated June 2009 and 18-06-2009 of the Petitioner no. 2 above named. By the said Affidavits the Petitioner seeks to annex documents to the petition, for which the Petitioner has not laid any foundation and/or has not setout facts in the main petition. The Respondents have completed their pleadings, and inter alia joined issue to the averments contained in the petition, as such; the said Affidavits

and/or documents ought not to be considered at this belated stage.

2. Without prejudice to the above, it is stated and submitted that the matter setout in the afore referred Affidavits of the Petitioner along with its Annexures, have been earlier brought to the notice of this Hon'ble Court, in M.C.A. No. 631/08, filed by the Petitioner in the above said petition. In fact This respondent joined issue in the said M.C.A. by reply dated 22-09-2008, and this Hon'ble Court was pleased to dispose off the said M.C.A. This respondent crave leave to refer and rely on the averments made in the Affidavit filed by This respondent in the above said M.C.A.

3. Without admitting the correctness of the contents contained in the documents and the interpretation sought to be given by the Petitioner to the said documents annexed by the Petitioners to the affidavits, this Respondent crave leave to refer and rely on the said documents for its true interpretation and meaning thereof. Contents of the affidavits filed

by the Petitioner which are contrary to what is stated hereinabove and contrary to the case setout by this respondent in may be taken as denied.

PANAJI-GOA

07-07-2009 RESPONDENT NO. 11

ADVOCATE FOR RESPONDENT NO. 11

AFFIDAVIT

I, Uday Gosalia, son of late Hiralal Khodidas, major of age, Indian National residing at Curchorem, Goa, Respondent no. 11 above named, do hereby on solemn affirmation beg to state that whatever stated in the foregoing paras are facts true to my own knowledge.

SOLEMNLY AFFIRMED AT PANAJI

ON THIS 7TH DAY OF JULY2009

DEPONENT

Identified by me:

Advocate for Respondent no. 11

IN THE HIGH COURT OF BOMBAY AND GOA

AT PANAJI

WRIT PETITION NO. 136 OF 2008

Rama Ladu Velip & Ors. ... PETITIONERS

v/s

State of Goa & Ors. ... RESPONDENTS

AFFIDAVIT

I, Uday Gosalia, son of late Hiralal Khodidas, major of age, Indian National, residing at Curchorem, Goa, Respondent No. 11 abovenamed do hereby on solemn affirmation beg to state as under:

1. I say that I have filed an affidavit dated 7-07-09 in reply to the affidavit of the Petitioner. I seek leave of this Hon'ble Court to file this affidavit in view of certain material data regarding the mine which was made available to me after I filed the said affidavit dated 7-07-09.

2. I say that in view of the contentious issue raised by the Petitioner in the petition that the mining lease in question is a forest land on a claim that it was so designated by the Sawant and Karapurkar Committee, I was advised that a scientific study of the status of the land whether it is a forest or not be made. As I could not get a person in Goa to carry out the survey, I had to find one who had his offices in Bombay and as such appointed Shri Ashok Joshi to carry out a study of the status of the land vis-à-vis its vegetation and define the status of the land vis-à-vis the provisions of the Forest Conservation Act.

3. I say that on being appointed he could carry out inspections of the site on 6-10-08 and 7-10-08 and thereafter on the data collected by him and analysis of the soil, he could give us a report only on 5/08/09. Hence I seek leave to file this affidavit as the same is vital for the issues raised by the Petitioner in the petition.

4. I say that the Respondents No.2 in the petition have in their reply filed in the petition stated that they have demarcated the area in the mining lease as claimed to be

falling within the forest area from the non forest area and that the said demarcation was carried in the light of the Sawant and Karapurkar Committee reports.

5. I say that on the basis of a study of the site namely the type of vegetation, the canopy cover, the type of trees existing within the area of the mining lease and on the basis of the soil conditions namely the type of soil, the said Shri Ashok Joshi has come to the conclusion that the surface land of the mining lease even the area which is earmarked by the Sawant and Karapurkar Committee with boundary marks as falling within private forest, infact is not a forest within the meaning of the Forest Conservation Act.

6. I say that on the basis of the data contained in his report he has arrived at a conclusion that the surface land falling within the mining lease area is not a forest area. Annexed hereto and marked as **ANNEXURE-I** is a copy of the said report. I refer and rely on the said report as if the same is specifically setout herein for the purpose of this affidavit.

7. I say that the Petitioner also has incidentally raised in the petition a ground that the provisions of Town and Country Planning Act are applicable to mining leases and therefore the provisions of Section 17(a) of the Town and Country Planning Act would be attracted in the instant case. The Petitioner also raised a contention that the provisions of Panchayat Raj Act are attracted to mining leases and one would need permissions under Section 68 of Panchayat Raj Act to carry on mining. The Petitioner further urged that the provisions of the Land Revenue Code are also applicable to mining leases and as such I would require conversion of land for change of user of land.

8. I say that I have joined issue as a fact to the application of the provisions of the said respective Acts to my mining lease in my pleadings earlier filed. I say that specifically I would like to urge, besides the contentions raised in regard to the application of the said Acts to my mining lease, the contention that the said Acts would not be applicable to mining leases as it would mean that if the said Acts are applied it would be ultra vires the

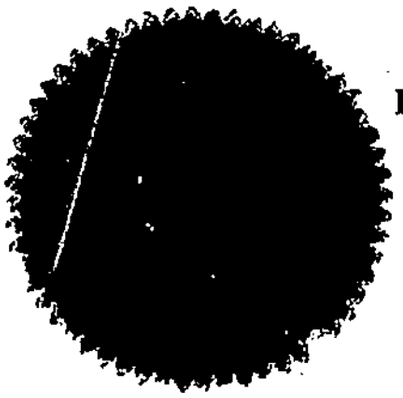
provisions of the Constitution of India in as much as the said local acts would clash with the legislation framed in that respect by the Central Government under the Central List.

9. I, the deponent above named do hereby on solemn affirmation beg to state that whatever stated in the forgoing paras is true to my own knowledge.

SOLEMNLY AFFIRMED AT PANAJI

ON THIS DAY OF SEPTEMBER 2009 DEPONENT

Identified by me:



IN THE HIGH COURT OF BOMBAY AND GOA

AT PANAJI

WRIT PETITION NO. 136 OF 2008

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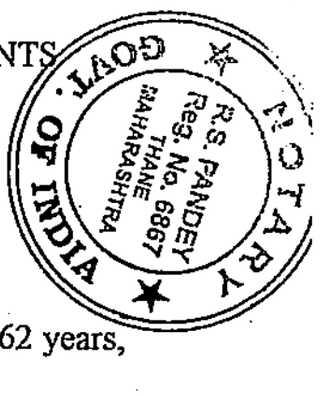
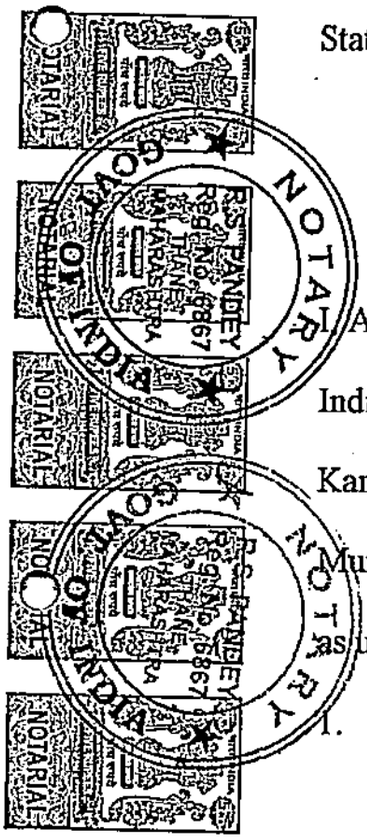




AFFIDAVIT

I, Ashok Madhav Joshi, son of Govind Joshi major of age 62 years, Indian national, Environmental Scientist, residing at 42A/003, Kanchanganga – 2, Shree Swami Samartha Nagar, Andheri (West), Mumbai , do hereby on solemn affirmation beg to state and submit as under:

1. I say that I have been engaged by Respondent No. 11 to carry out a scientific study and prepare a report on the forest status of the land covered by the mining lease bearing Survey No. 57 and Survey No. 68 of the Petitioner namely Gogoro Ou Gulcan Dongar mine covered by the property bearing Survey Nos. 42(P), 43(P), 44(P), 45(P), 46(P), 54(P), 55(P), 56(P),

57(P), 58, 59(P), 67(P), 68(P), 69(P) and 70 of the Village of Colomba, Sanguem Taluka.

2. I say that Respondent No. 11 engaged my services somewhere in the month of September 2008 to carry out a study and submit a report on the status of the land bearing Survey No. 57 and 68 forming part of the mining lease in view of the controversy raised by the Petitioner in the petition to the effect that the mining lease land was a private forest as identified by the Sawant and Karapurkar Committee.

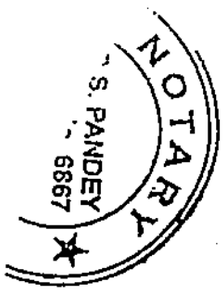
3. I say that my qualifications are as under:

I obtained my masters in the subject Zoology by research from Bombay University in 1973. I have undertaken special environmental training during my M Sc and secured extensive experience through field studies conducted by the Institute of Science of Bombay University in association with the United States National Science Foundation. I obtained my doctorate in Science from the University of Bombay in 1978. I have been associated in preparing the environmental impact assessment studies for more than 50 major projects.

NOTARY
R.S. PANDEY
Reg. No. 6867

4. I say that on inspection at site and after collecting the data of the land, soil investigations, the vegetation which I found at site, the details of which I have obtained from the Respondent No. 11 and from the site I have come to the conclusion that the land covered by the mining lease of Respondent No. 11 is not a forest on finding rendered by me in my report based on data reflected in the said report.

5. I adopt herein each and every statement of fact and averment contained in my report as if the same are specifically setout herein. The report at **ANNEXURE-I** to the affidavit filed by Uday Gosalia bears my signature and has been prepared by me.



6. I, the deponent above named do hereby on solemn affirmation beg to state that whatever stated in the forgoing paras is true to my own knowledge.

SOLEMNLY AFFIRMED AT Thane

ON THIS 20th DAY OF AUGUST 2009

DEPONENT

Identified by me:

BEFORE ME

R. S. PANDEY
B.A.,LL.B.
Advocate & Notary
Thane Reg. No. 6867
Government of India
Mount Merry, Bandra (W).
: 9322755377

20 AUG 2009

NOTED & REGISTERED

No. & Date...4129/09.....

IN THE HIGH COURT OF JUDICATURE AT BOMBAY (GOA BENCH AT PANAJI)

WRIT PETITION NOS. 722/2008 & 136/2008

WRIT PETITON NO. 722/2008

Goa Foundation through
Secretary Dr. Claude Alvares
& Ors. ...Petitioners

Versus

State of Goa through Chief
Secretary and Ors. ...Respondents

AFFIDAVIT – IN – REPLY ON BEHALF OF RESPONDENT No 2.

I, Vijai Sharma, the Secretary, Ministry of Environment and Forests, Government of India having my office, at Paryawaran Bhavan, CGO Complex, Lodhi Road, New Delhi 110 003, hereby state on solemn affirmation as under :-

1. At the outset I say that I have not been kept informed of the proceedings in the aforesaid matter. I was informed of the order of this Hon'ble Court dated 14.9.2009 only on 22.9.2009 and also informed that the Ministry of Environment and Forests had not filed an affidavit clarifying it's stand on the guidelines and clarifications issued under the Forest (Conservation) Act ,1980 by the Ministry of Environment and Forests .

(VIJAI SHARMA)
Secretary
Min. of Env. & Forests
Govt. of India. New Delhi

2. Save and except as stated below, I have not been concerned with the subject matter of the Petition and I am, therefore, not familiar with the allegations made in the Writ Petition. I assure this Hon'ble Court that a senior officer of the Ministry of Environment and Forests who is well conversant with the matter will file a further affidavit on behalf of the Ministry of Environment and Forests prior to the next date of hearing fixed on 06.10.2009.

3. I make this affidavit out of respect for and in deference to this Hon'ble Court and to obey its order dated 14.09.2009.

4. I unconditionally apologize for myself and on behalf of the Ministry of Environment and Forests for the fact that save and except an affidavit dated 19.2.2009, made by Dr. U. Shridharan (Additional Director, Ministry of Environment and Forests posted at Regional Office at Bangalore) no further affidavit has been filed by Ministry of Environment and Forests as directed by the Hon'ble Court . I humbly request this Hon'ble Court to accept my apology and I assure this Hon'ble Court that I will ensure that a senior officer makes a further affidavit prior to 06.10.2009 so that the stand of the Ministry of Environment and Forests in respect of the

(VIJAI SHARMA)
Secretary
Min. of Env. & Forests
Govt. of India, New Delhi

matters raised in the petition is placed before this Hon'ble Court without any further delay.

5. I am informed by my officers that this Hon'ble Court requires the Ministry of Environment and Forests to clarify it's stand on the Guidelines including in particular the guideline para 4.4 of which is reproduced hereunder:

4.4 ***Projects involving forest as well as non - forest land***

Some projects involve use of forest land as well as non-forest land. State Governments/ project authorities sometimes start work on non- forest land in anticipation of the approval of the Central Government for release of the forest lands required for the projects. Though the provisions of the Act may not have technically been violated by starting of work on non - forest land, expenditure incurred on works on non - forest land may prove to be infructuous if diversion of forest land involved is not approved. It has, therefore, been decided that if a project involves forest as well as non - forest land, work should not be started on forest land till approval of the Central Government for release of forest land under the Act has been given".

(VIJAI SHARMA)
Secretary
Min. of Env. & Forests
Govt. of India, New Delhi

6. I am informed by my officers that Dr. U. Sridharan, Addl. Director at Regional Office, Bangalore personally visited the site of Devapan Dongor Iron and Manganese Ore Mine at Village Caurem, in Quepem Taluka in Goa on 22.10.2008. He prepared a report which he forwarded to Shri W. Bharat Singh, Dy. Director in the Ministry of Environment and Forests under cover of his letter dated 27.10.2008. I, annexe hereto a copy of the said letter dated 27.10.2008 along with the report of the site visit which was annexed thereto. I am informed that on the basis of this report, the Ministry of Environment and Forests was satisfied that the said mine was an existing mine in operation. I am informed that by an application dated 20.05.2008 Respondent no. 6 made an application for increasing the production of the existing mine.

7. I am given to understand that no application has been made by the said Respondent for carrying out any non - forest activity in the forest area which forms part of the total area covered by the mining lease as stated in the affidavit dated 19.2.2009 filed by Dr. U. Shridharan Addl. Director, on behalf of the Ministry of Environment and Forests.

8. Environment Clearance was given by the Ministry of Environment and Forests vide it's letter dated 08.09.2008 under the Environment Impact Assessment

(VIJAI SHARMA)
Secretary
Min. of Env. & Forests
Govt. of India, New Delhi

Notification dated 14.09.2006, issued under the Environment (Protection) Act, 1986. This was after the procedure required under the said notification was complied with including holding of a public hearing.

9. The said Environment Clearance had received my concurrence which I had given based on the recommendations of the Expert Appraisal Committee constituted by the Ministry of Environment and Forests.

10. The Guidelines including those contained in para 4.4 can be deviated from in a given case if the facts and circumstances warrant and where such deviation is not arbitrary . However, in the instant case I am informed that no mining activity is being carried on the forest land that forms part of the mining lease. Guideline 4.4 would apply in the case of a new project which involves commencement of work on both forest and non - forest land. In the present case as stated hereinabove, the mine has been in operation since 2006-2007 at least on non - forest land and in such cases the said guideline would not apply to prohibit any mining work on the non - forest land.

11. I may also state that the Ministry of Environment and Forests has not received any application from the Government of Goa for grant of any clearance under Section 2(iii) of the Forest (Conservation) Act, 1980 in

(VIJAI SHARMA)
Secretary
Min. of Env. & Forests
Govt. of India. New Delhi

respect of the mine or the lease in respect of the mine in the present petition.

12. Under these circumstances I humbly and respectfully request this Hon'ble Court to reconsider and recall that portion of the order dated 14.09.2009 whereunder costs of Rs. 10,000/- have been imposed on me personally. I also further respectfully pray that this affidavit be accepted and that my personal presence before this Hon'ble Court be dispensed with . I am required to attend important meetings in the UN headquarters at New York and with U.S. Government representatives in Washington during the week of 28.09.09 to 2.10.09, immediately followed by meetings during the week of 05.10.09 to 09.10.09 of the National Ganga River Basin Authority chaired by Prime Minister, of which I am the Member–Secretary and, expectedly, of the Department related Parliamentary Standing Committee to discuss significant legislative matters .

13. However, I assure this Hon'ble Court that a senior officer from the Ministry of Environment and Forests will not only file a further affidavit prior to 06.10.2009 but will also be personally present when this matter is heard by this Hon'ble Court .

14. I state that whatever is stated by me in the foregoing paragraphs no. 5 to 8 and 10 to 11 are based on the

(VIJAI SHARMA)
Secretary
Min. of Env. & Forests
Govt. of India. New Delhi

information derived from records suggested to me by my officer which I believe to be true. What is stated in paragraphs in 1,2,3,4, 9,12 &13 ~~is~~ are true to my knowledge .

Solemnly affirmed at Delhi)

Dated this 26 day of September)

2009)

(VIJAI SHARMA)
Secretary
Dept. of Env. & Forests
Govt. of India, New Delhi

)....Deponent

Advocate for

Before me

स्पीड डाक द्वारा
BY SPEED POST

BY SPEED POST

EP/12.1/179/ Goa / 3145
Government of India
Ministry of Environment and Forests
Regional Office (South Zone)

Kendriya Sadan, IV Floor.
E & F Wing, 17th Main Road, 2nd Block,
Koramangala, BANGALORE-560 034

Dated: 27th October 2008

To.

Mr W. Bharat Singh,
Deputy Director (IA),
Ministry of Environment and Forests,
Paryavaran Bhawan, CGO Complex,
Lodhi Road, New Delhi –110 003

Subject: **Clarification on Status of mining of 1) Devapan Dongor Iron and Manganese ore mining project of Shri Shaikh Salim and 2) Chuninimola Iron Ore mining projects of M/s Shantilal Khushaldas & Bros. (P) Ltd in South Goa- regarding**

Sir,

This is in response to the Ministry of Environment & Forest's letter No J-15012/39/ 2007-IA-II (M) dated 7th October 2008 on the above-mentioned subject, the undersigned is directed to enclose herewith the site visit report of these projects for necessary action at your end.

Yours faithfully

Encl: as above

(U. Sridharan)
Additional Director

Copy to. The Chairmen, Goa State Pollution Control Board, Dempo Towers, I floor, EDC PLAZA, Patto, Panaji 403 001 Goa for kind information..

Devapan Dongor Iron and Manganese ore mining project of Shri Shaikh Salim and Chuninimola Iron Ore mining projects of M/s Shantilal Khushaldas & Bros. (P) Ltd in South Goa- site visit report

In response to the Ministry of Environment & Forest's letter No J-15012/39/ 2007-IA-II (M) dated 7th October 2008 and as per the direction of the CCF (C) of the Southern Regional Office, a site visit was carried out to find out the factual position regarding two mining projects in South Goa on 22nd October 2008. The site visit was organized jointly along with the following officials:

1. Mr Sailesh Vaigankar, JEE, Goa State Pollution Control Board
2. Mr Sajid Inamdar, JLA Goa State Pollution Control Board
3. Mr Jayant Sirsat, Asst. Geologist, Mines & Geology Dept., Govt. of Goa
4. Mr Suraj Kalgutkar, TA Mines & Geology Dept., Government of Goa

After the site visit, discussions were held along with Sri A.B. Panigrahi, Regional Controller of Mines in his office at Margao on 22nd October 2008, the Chairman, Member Secretary of the Goa State Pollution Control Board and the Director Mines & Geology Dept., Government of Goa on 24th October 2008.

Both the projects viz. Devapan Dongor Iron and Manganese ore mining project of Shri Shaikh Salim and Chuninimola Iron Ore mining projects of M/s Shantilal Khushaldas & Bros. (P) Ltd were not in operation during the site visit. The details collected for these mines during the visit are described in this report.

Chuninimola Iron Ore Mine of M/s Shantilal Khushaldas Bros Pvt Ltd.

The team visited site of Chuninimola Iron Ore Mine first. No mining operations are being carried out at present in this mine. Mr S.N. Naik Chief Suprintendent Mines of M/s Shantilal Khushaldas Bros Pvt Ltd was at the site and explained the details of this mine to the team.

This mine lease is located in Rivona village, Sanguem Taluka, South Goa district of Goa and is having an area of 42.91 ha (The lease area was granted under Title Concession No 28 of 1952). Now, from this mine, the project authority is proposing to mine 0.2 Million Tonnes/annum of iron ore. The mine was earlier in operation from 1965 to 1986 and was closed due to less demand of low grade iron ore fines. The project authorities have duly applied for the renewal of mining lease in November 1987 for 20 years and now in November 2007 for 20 more years i.e. up to November 2027. Simultaneously the project authorities have started the process of obtaining the environmental clearance from the Ministry of Environment and Forests. Along with the process of

obtaining the environmental clearance they have started the preliminary preparations to start the mining operations after getting the environmental clearance. Accordingly they have given notices to the Director of Mines Safety (Goa Region) relating to the opening notice in Form No -1, appointment of mines manager, appointment of agent and permission under Regulation 106 (2) (b) of the Metalliferous Mines Regulation, 1961 to use heavy earth moving machinery without deep hole drilling and blasting. They have also obtained permission of fell trees from the forest department. They have submitted Forest clearance proposal also under Section-2 of the Forest Conservation Act 1984 for the forest area coming under this mining lease. The project authorities have informed that they have not started their mining operations from this mine and not produced any, thus they have not submitted any monthly/ quarterly/ annual returns to any authority. This was duly verified from Sri A.B. Panigrahi, Regional Controller of Mines from his office at Margao and from the Mines & Geology Department of the Government of Goa. The Goa State Pollution Control Board is yet to give their consents for this mine; it was informed that GSPCB will consider the issue of consent after the project obtains their environmental clearance from the Ministry of Environment and Forests.

Chuninimola Iron Ore Mine is having old worked pits, lumpy stocks and rejection dumps. It was informed that by the project authorities that some iron ore trading agencies have started pilfering low grade ore from un-attended old non working mines, due to the iron ore export boon for all type & sizes of ore. From this mine also some clandestine robbing of iron ore took place during 2005-2006 and the project authorities realised the situation only after 6-8 months and started taking corrective action by shifting machinery, erecting obstacles on road to put barricade on roads leading to pits, lumpy ore stocks and rejection dumps. They have purchased private property within and surrounding the lease area. It was informed that since the old rejection dumps and old lumpy ore stock were disturbed, they have undertaken protective measures like construction of laterite parapet wall, cutting trenches for drainage to course the monsoon water into the pit, regarding of disturbed dumps etc and they have used machinery for these jobs, by using mobile screens they have handled the disturbed old lumpy stocks to screen & size them. Presently, the project authorities have shifted all the machinery from this mine area, production has not started so far from this mine. Earlier the project authorities have initiated preliminary activities at site, to start mining immediately after obtaining necessary clearances. Now, at the site no activity or no mining operations are going on. No returns are submitted by the project authorities to the regional controller of Mines and to the Mines Department of the Government of Goa by the project authorities.

Devapan Dongor Iron and Manganese ore mine is held by Shri Shaikh Mohamad Isaac now with his son Shri Shaikh Salim.

The team subsequently visited the Devapan Dongor Iron & Manganese Ore mining lease located in Caurem village, Quepem Taluka, South Goa district, Goa This mining lease is having an area of 83.0 ha (The lease area was granted under Title Concession No. 01 of 1951). This mine is intended to produce 0.3 MTPA of iron ore and 0.011 MTPA of manganese ore from the proposed Devapan Dongor Mine. Ministry of Environment and Forest has granted the environmental clearance only for iron ore mining vide ref J-11015/ 953/2007-IA-II (M) dated 08th September 2008.

At the time of inspection the mine was not in operation. Mr. P.A. Fernandas Geologist and Mr Prasant Naik Administrator of the mine were at the site during the site visit and explained the details for this mine.

The project authorities have duly applied for the renewal of the mining leases on time and their fresh mining plan is approved in October 2007 for 20 years. The project authorities have informed that they have produced some Manganese ore up to 2006 and in 2007 they have produced Iron ore to the extent of 17000 tones on an understanding that production is not exceeding pre 1994 production levels of the old lease period and the mining operations have stopped since November 2007. Necessary returns are filed by the project authority to the concerned authorities. This project has obtained environmental clearance in September 2008 and the Goa State Pollution Control Board has given the consent to establish and they are yet to give their consent to operate for this mine.

Subsequent to the site visit, discussions were held with Sri A.B. Panigrahi, Regional Controller of Mines in his office at Margao, who informed that the annual return submitted by the project authority for 2007-2008 shows the mine worked for 68 days with a production figure of 17000 Tonnes. Similar figure was filed by the project authority to the Director, Mines & Geology Department of the Government of Goa. During discussions with Mr Hector C.M.C. Fernandes, & Mr Jayant Sirsat, Geologists in the Mines Department Government of Goa, it was informed that they have some old records of production figures for various mines. For this mine production figures are available from 1956 to 1965 and they have informed that this mine has produced 17100 Tonnes in 1960.

(Dr U. Sridharan)
Additional Director

IN THE HIGH COURT OF BOMBAY AT PANAJI, GOA

WRIT PETITION NOS. 136/2008

Rama Ladu Velip & Ors. ...Petitioners

Versus

State of Goa through Chief Secretary and Ors. ... Respondents

AFFIDAVIT OF THE RESPONDENT No 2.

I, Shri Ansar Ahmed, major age, an Indian national, working as Inspector General of Forest the Ministry of Environment and Forests, Government of India having my office, at Paryawaran Bhavan, CGO Complex, Lodhi Road, New Delhi 110 003, hereby state on solemn affirmation as under :-

1. I say that I am duly authorized officer to file this affidavit, I am replying to the averments concerning the Respondent No.2 in the petition.

2. I say that besides the affidavit which has been filed by the Secretary, Ministry of Environment & Forests in terms of the directions of this Hon'ble Court by its order dated 14.09.2009 I crave leave to file this affidavit to deal with the averments made in this Writ Petition.

3. I say after the Writ Petition was filed, the Petitioner has filed additional affidavit in June, 2009 and thereafter the Respondent No.11 has filed an affidavit along with

report on forest status. I am, therefore, filing this affidavit to deal with the averments made in the petition and also the additional affidavits filed thereafter, because the matter had to be examined by the Ministry in respect of the issues raised thereafter particularly with respect to entire mining lease involving forest and non-forest land.

4. That with regards to the contents of para no.6 of this Writ Petition, it is submitted that the contents thereof are not correct in the manner they have been stated. I say that the Respondent No.11 at the time of seeking environmental clearance had mentioned the said land as private land.

5. That with regards to the contents of para no.9 I say that environmental clearance was granted by the Ministry of Environment & Forests, the answering Respondent No.2, in acceptance of the recommendation of the Expert Appraisal Committee (Mining) constituted by the Ministry of Environment & Forests.

6. That with regards to the contents of para no.11, I say that whether the said land is a private forests or government forests, the prior approval of Central Government for diversion of forest land for non-forestry purpose is required under the Forest (Conservation) Act, 1980.

7. That with regards to the contents of para no.12, I say that as per records available with the Respondent No.2, the Respondent No.11 has not obtained clearance under Forest (Conservation) Act, 1980.

8. That with regards to the contents of para no.18, I say that that the Respondent No.2 considered the recommendations of the Expert Appraisal Committee, which was based on the available records.

8.1 It is further submitted that the Petitioner No.3 filed an RTI application dated 27.08.2008 seeking action proposed to be taken by the Respondent No.2 **[ANNEXURE-I]**. The Respondent No.2 by its letter dated 18.09.2008 **[ANNEXURE-II]** informed the Petitioner No.3 that the file pertaining to the said mine has been sought for examination and shall revert back once the same is traced. It is further submitted that the Respondent No.2 subsequently wrote to Respondent No.11 asking him to substantiate his claim that the mining lease pertaining to Gogoro Ou Gulcan Dongor Mine is a private waste land as stated by him while applying for environmental clearance **[ANNEXURE-III]**. That this was also informed to the Petitioner no. 3 **[ANNEXURE -IV]**.

8.2 That the Respondent No.11 in its reply dated 03.11.2008 informed the Respondent No.2 that as per revenue records the said land is in the name of M/s Sociedade-de-Fomento Industrial Pvt. Ltd.

8.3 The Respondent No.11 stated further that they have come to know that survey nos. 57/1 and 68/1 within the said mining lease has reportedly been demarcated as private forests as identified by Sawant and Karapurkar Committee.

8.4 The Respondent No.11 further informed that they are not carrying out any mining in the said area

demarcated by the Forests Department. It was further informed by the Respondent No.11 that they have in no way misrepresented facts while applying for environmental clearance pertaining to the said lease. The said letter of the Respondent no.11 is herein enclosed as **ANNEXURE-V.**

8.5 That it is submitted that the said file pertaining to the subject mine was subsequently traced only in July, 2009.

8.6 That the term of the Expert Appraisal Committee (Mining) under whose recommendation the said environmental clearance was accorded by the Respondent No.2 expired in August, 2009.

8.7 That it is submitted that in the light of the subsequent information available now pertaining to category of land of the said mine, the Respondent No.2 intends to place the matter before the new Expert Appraisal Committee (Mining) constituted in September, 2009 in its next meeting.

9. That with regards to the content of para no.19, I say that the Expert Appraisal Committee during appraisal of projects invariably considers impact of mining activity on socio economic aspects of the community and ecology of the area. This then forms a part of the deliberations even though the same has not been specifically recorded in the minutes of the meeting during which the subject mine was appraised by the Expert Appraisal Committee.

10. That with regard to the contents of para no.20, it is admitted that the environmental clearance was issued

in March, 2007 based on the information provided by the Respondent No.11 & 12 and in acceptance of the recommendations of the Expert Appraisal Committee (Mining).

11. That with regards to the contents of para no.21, it is submitted that the Respondent No.2 admits that there are no material available to suggest that the figures are not correct.

12. That with regards to the contents of para no.22, it is submitted that the Regional Office of the Respondent no.2 at Bangalore in this case, would be monitoring compliance of conditions stipulated in environmental clearances.

13. I say in respect of the hand Book of Forest (Conservation) Act, 1980 – Guidelines and clarifications issued by the Respondent No.2, are the guiding principles for granting forest clearance for diversion of forest land for non-forestry purposes. That those contained in para 4.4 can be deviated from in a given case if the facts and circumstances warrant and where such deviation is not arbitrary. However, in the instant case as per information provided by the State Forest Department of Government of Goa to the Respondent No.2 no mining activity is being carried on the forest land (private or government) that purportedly forms part of the mining lease.

14. In the understanding of the Ministry, the spirit of para 4.4. of the Guidelines is that in a new project, which involves commencement of work on a lease area having both forest and non-forest land, prior approval of the Central Government under Forest (Conservation)

Act 1980 should be obtained and no non-forest activity including mining should be started on the non-forest portion of the land till approval of the Central Government for release of the forest land under the Act has been given.

To throw further light in the matter, it is submitted that in a project which absolutely requires diversion of the forest portion of the land for completion of the project, it would generally be prescribed that no work should be started even on the non-forest portion of the land, till the forest clearance is obtained. Such a situation would arise, e.g. in the case of a railway line/road /other such linear projects , which obligatorily pass through the forest area even for a portion of the length. In such a case, the expenditure incurred on the works on the non-forest land would become infructuous, if diversion of the forest land involved were not approved.

In the case of existing mining leases, involving forest lands, the position emanating from the Forest conservation Act, 1980 is that non-forest activity including mining can continue on the lease land till the date of expiry of the existing lease, after which renewal can be done following the process of the Forest (Conservation) Act, 1980.

A query has been raised in this Hon'ble Court how a situation will be dealt with where a portion of the land under the existing valid lease is declared as a forest subsequent to the date of commencement of the said lease. In other words, the question raised is in respect of a situation wherein the original lease would have been granted assuming that entire area

was non-forest land. It is humbly submitted that this sort of situation has not been addressed specifically in the guidelines referred to above.

However, on a preliminary examination of the issues involved, it is humbly and respectfully submitted that the requirement of seeking clearance under Forest Conservation Act, 1980 has been waived in the case of the existing valid leases on the land which was already notified as forest at the time of granting of lease (i.e. prior to enactment of Forest Conservation Act, 1980). This waiver would appear to be applicable *a fortiori* in the case of land which came to be declared as forest later on. However, where overwhelming public interest and ecological safety are involved, it may be open to insist on application of the Forest Conservation Act, 1980, even in such cases, as the guideline 4.4 is in the nature of clarification and not a law.

15. It is further submitted that the Ministry of Environment and Forests has not received any application from the Government of Goa for grant of any clearance under Section 2(iii) of the Forest (Conservation) Act, 1980 in respect of the mine or the lease in respect of the mine in the present petition.

I the Deponent above named state and verify that what has been stated in the foregoing para nos are true to my knowledge based on records.

Solemnly affirmed on this 5th October, 2009 at Panaji, Goa.

Shri Ansar Ahmed
Inspector General of Forests

IDENTIFIED BY:

ANNEXURE – I

The Goa Foundation

G-8, St Britto's Apartments,
Feira Alta, Mapusa 403507 Goa
Phones: 0832-2263305; 2256479
www.goafoundation.org
email: goafoundation@gmail.com

27th August, 2008

To,
The Public Information Officer (EIA Div)
Ministry of Environment and Forests,
Paryavaran Bhawan,
CGO Complex, Lodi Road,
New Delhi – 110 003.

Sub: Recall of Environment Clearance dated 12.3.2007 for mining lease o Hiralal Kodidas in Goa.

Dear Sir,

On 23rd April, 2008, the Goa Foundation made representation to the MoEF that the EC granted to the above project be cancelled for falsely representi to the ministry that the lease was a wasteland and for suppressing the fact that the lease has standing forest on it.

It is nearly 4 months since we wrote the letter (copy of which we are annexing for your ready reference). We therefore seek from you under the provisions of the RTI Act, details of what action has been taken by MoEF i the matter pursuant to our representation dated 23rd April, 2008.

F(RDS)
Yours sincerely,
0 of Rs. 10/-
need in RTI

Dr. Claude Alvares
Director
2.9.08

Encl:1) as above
2) Postal order of Rs 10.00.

by be
to CIC
ubtion.

2/9/08

ANNEXURE-II

BY REGD. POST

J-15012/39/2007-IA.II (M)
Government of India
Ministry of Environment & Forests

Ph: 011-24367257
Room No. 549, Paryavaran Bhawan
CGO Complex, Lodhi Road
New Delhi – 110 003
New Delhi: September 18, 2008

To

Dr. Claude Alvares
G-8, St Britto's Apartments
Feira Alta, Mapusa
Goa – 403 507

Sub: Your application for information under RTI Act, 2005, dated 27.08.2008.

Sir,

I am directed to inform you that the processing division of this Ministry has received your application under RTI, dated 27.8.2008, only on02.09.2008. It is also further to inform that this Division is not in receipt of your earlier letter dated 23.04.2008 and its enclosures, wherein you have raised the issue of misrepresentation of facts by Shri Hiralal Khodidas while seeking environmental clearance for Iron Ore Mine viz. Gogoro Ou Gulcan Dongor Mine, at village Colomba, In Sanguem Taluk, in South Goa Distt., Goa.

We sought the file for examination and necessary action in the matter and shall revert back once the concerned file is traced.

Yours faithfully,

(W. Bharat Singh)
Deputy Director (IA)

ANNEXURE-III

REGD. POST

F.No.J-11015/180/2006-IA.II(M)
Government of India
Ministry of Environment & Forests

Paryavaran Bhavan, C.G.O. Complex
Lodi Road, New Delhi-110003
Tel.No.011-24367257
e-mail: w.bharat@nic.in
Dated: October 24, 2008

To

Shri Uday H. Gosalia
Near Savordekar Petrol Pump
Curchorem, District South Goa
Goa - 403 706.

Sub: Environmental clearance of Gogoro Ou Gulcan Dongor Mine at village Colomba, in Sanguem Taluk, in South Goa Distt.

Sir,

It has been informed that the Survey No. 68 and Survey No. 57/1 which falls in your mining lease of your above mentioned mine is a *private forest land*, whereas, as per information provided by you while applying for environmental clearance of the said mine, the same was mentioned as *private waste land*.

You are therefore requested to give your clarification with documental evidence such as revenue records of the State Govt. or any other to substantiate your claim that the lease area is a private waste land as submitted by you earlier. In case no satisfactory reply is received within 15 days from the receipt of this letter, suitable action will be taken for misrepresentation of facts.

Thanking you,

Yours faithfully,

W.Bharat Singh
Dy. Director (IA)

542

ANNEXURE-IV

BY REGD. POST

J-15012/39/2007-IA.II (M)
Government of India
Ministry of Environment & Forests

Ph: 011-24536725
Room No. 549, Paryavaran Bhawan
CGO Complex, Lodhi Road
New Delhi – 110 003
New Delhi: October 31, 2008

To

Dr. Claude Alvares
G-8, St Britto's Apartments
Feira Alta, Mapusa
Goa – 403 507

Sub: Your application for information under RTI Act, 2005, dated 27.08.2008.

Sir,

I am directed to inform you that we have sought clarification from Shri Uday H. Gosali with documental evidence such as revenue records of the State Govt. or any other t substantiate his claim that the lease area of his mine viz. Gogoro Ou Gulcan Dongor Mine a village Colomba, in Sanguem Taluk, in South Goa Distt is a private waste land as submitted b him earlier while applying for environmental clearance from this Ministry for further action.

Yours faithfully

(W. Bharat Singh
Deputy Director (I

ANNEXURE-V

Hiralal Kodidas

MINE OWNER
CURCHOREM, GOA-403706

Date: 03/11/2008

To.
The Dy. Director (IA).
Ministry of Environment & Forests.
Paryavaran Bhavan.
C.G.O.Complex.
Lodi Road. New Delhi – 110003.

Sub: Environmental Clearance of Gogoro Ou Gulcan Dongar Mine at Village: Colomba, in Sanguem Taluk, in South Goa Distt.

Ref: Your letter dated 21/10/2008. F.No.J-11015/180/2006-IA.II (M)

Kind Attn: W.Bharat Singh Dy. Director (IA)

Dear Sir.

With reference to above subject I would like to submit as under

1) The land under survey no. 68 and survey no. 57/1 is a private land and it is very well recorded in form I & 14 as a private land in the name of Sociedade de – Fomento Industrial Pvt. Ltd. We have relied upon the same revenue record and submitted to MOEF during our application for obtaining Clearance and till today it is recorded the same. We are enclosing herewith original copy of form I & XIV which is taken on 29/10/2008 and shown as private property. In June 2006 we understand that forest Department has demarcated survey no. 57/1 and 68/1 as private forest on enquiry they told us although it is private property it is identified by sawant and karapurkar committee as private forest.

2) The said identification done without us being given any notice or hearing by either of the committees. We may point out that apparently the forest department has demarcated the said area earmarked by the sawant and karapurkar committee as a forest by boundary marks fixed at site.

3) We are not carrying on any mining operations within the area demarcated by the forest department. As a fact, the area identified by the private forest identified by sawant and karapurkar committees a rocky land and not meant to be a forest. We on the basis of the survey entries and on the actual nature of the land, have furnished information to you and filled in the requisite data whilst seeking Environmental Clearance. and have in no way misrepresented any fact at the time of filling of our application for environmental clearance.

Mr. Alam

In the light of the above, we request you to treat the issue raised by you in your letter under reply as closed.

Thanking You.

Yours Faithfully,

Uday Gosallia.
Legal heir of Hiralal Kodidas.

345

501/155763

FORM I & XIV

नमुना नं. १ व १४

Date : 29/10/2008

Taluka तालुका	Sanguem	Survey No. सर्व्हे नंबर	68
Village गांव	Colomba	Sub Div. No. हिस्सा नंबर	1
Name of the Field शेताचें नांव	Gharbhat	Tenure सत्ता प्रकार	

Cultivable Area (Ha.Ars.Sq.Mtrs) लागण क्षेत्र (हे.आर.चौ.मी .)

Dry Crop जिरायत	Garden बागायत	Rice तरी	Khajan खाजण	Ker खेर	Morad मोरड,	Total Cultivable Area एकूण लागण क्षेत्र
0049.31.50	0000.00.00	0000.00.00	0000.00.00	0000.00.00	0000.00.00	0049.31.50

Un-cultivable Area (Ha.Ars.Sq.Mtrs) नापिक क्षेत्र (हे.आर.चौ.मी .)

Pot-Kharab पोट खराब

Class (a) वर्ग (अ)	Class (b) वर्ग (ब)	Total Un-Cultivable एकूण नापिक जमीन	Grand Total एकूण	Remarks शेरा
0000.01.75	0000.01.75	0000.03.50	0049.35.00	

Assessment : आकार	Rs. 0.00	Foro फोर	Rs. 0.00	Predial प्रेदियाल	Rs. 0.00	Rent रेंट	Rs. 0.00

S.No.	Name of the Occupant कबजेदाराचे नांव	Khata No. खातें नंबर	Mutation No. फेरफार नं.	Remarks शेरा
1	M/s Sociedade De Fomento Industrial Ltd.		49	

S.No.	Name of the Tenant कुळाचे नांव	Khata No. खातें नंबर	Mutation No. फेरफार नं.	Remarks शेरा
1	----------Nil----------			

Other Rights - इतर हक्क Name of Person holding rights and nature of rights: इतर हक्क धारण करणा-याचे नांव व हक्काचा प्रकार	Mutation No. फेरफार नं.	Remarks शेरा
House owned by: Fomento: Sociadade De Fomento Industry Pvt. Ltd.		

Details of Cropped Area पिकाखालील क्षेत्राचा तपशील

Year वर्ष	Name of the Cultivator लागण करणा-याचे नांव	Mode रीत	Season मौसम	Name of Crop पिकाचे नांव	Irrigated बागायत Ha.Ars.Sq.Mts. हे.आर.चौ.मी .	Unirrigated जिरायत Ha..Ars Sq.Mts. हे.आर चौ.मी .	Land not Available for cultivation नापिक जमिन Nature प्रकार	Area क्षेत्र (Ha.Ars Sq.Mts.) हे.आर..चौ.मी	Source of Irrigation सिंचनाचा प्रकार	Remarks शेरा
	----------Nil----------									

End of Report

Please Note :
For any further inquires, please contact the Mamlatdar of the concerned Taluka

OFFICER IN CHARGE
LAND RECORDS
VIDE GOVERNMENT ORDER
26/12/20[illegible] 61
Cairo [illegible]
Sesa[illegible] Industries Private Limited
Date of issue 29/10/08
Place Panaji Goa

346

501/155762

FORM I & XIV

नमुना नं. १ व १४

Date : 29/10/2008

Taluka तालुका	Sanguem	Survey No. सर्व्हे नंबर	57
Village गांव	Colomba	Sub Div. No. हिस्सा नंबर	1
Name of the Field शेताचें नांव	Malvdem	Tenure सत्ता प्रकार	

Cultivable Area (Ha.Ars.Sq.Mtrs) लागण क्षेत्र (हे.आर.चौ.मी .)

Dry Crop जिरायत	Garden बागायत	Rice तरी	Khajan खाजण	Kar खार	Morad मोरड	Total Cultivable Area एकूण लागण क्षेत्र
0005.78.50	0005.82.00	0031.10.00	0000.00.00	0000.00.00	0000.00.00	0042.70.50

Un-cultivable Area (Ha.Ars.Sq.Mtrs) नापिक क्षेत्र (हे.आर.चौ.मी .)

Pot-Kharab पोट खराब

Class (a) वर्ग (अ)	Class (b) वर्ग (ब)	Total Un-Cultivable एकूण नापिक जमीन	Grand Total एकूण
0000.00.50	0000.06.75	0000.07.25	0042.77.75

Remarks शेरा

Assessment : आकार	Rs. 0.00	Foro फोर	Rs. 0.00	Predial प्रेडियाल	Rs. 0.00	Rent रेंट	Rs. 0.00

S.No.	Name of the Occupant कब्जेदाराचे नांव	Khata No. खाते नंबर	Mutation No. फेरफार नं.	Remarks शेरा
1	M/s Socledade De Fomento Industrial Ltd.		49	

S.No.	Name of the Tenant कुळाचे नांव	Khata No. खाते नंबर	Mutation No. फेरफार नं.	Remarks शेरा
1	----------Nill----------			

Other Rights - इतर हक्क Name of Person holding rights and nature of rights: इतर हक्क धारण करणा-याचे नांव व हक्काचा प्रकार	Mutation No. फेरफार नं.	Remarks शेरा
House occupied by Hiralal Company		

Details of Cropped Area पिकाखालील क्षेत्राचा तपशील

Year वर्ष	Name of the Cultivator लागण करणा-याचे नांव	Mode रीत	Season मौसम	Name of Crop पिकाचे नांव	Irrigated बागायत Ha.Ars.Sq.Mts. हे.आर.चौ.मी .	Unirrigated जिरायत Ha..Ars.Sq.Mts. हे.आर.चौ.मी .	Land not Available for cultivation नापिक जमिन Nature प्रकार	Area as (Ha.Ars Sq.Mts.) हे.आर..चौ.मी	Source of irrigation सिंचनाचा प्रकार	Remarks शेरा
	----------Nil----------									

End of Report

Please Note :
For any further inquires, please contact the Mamlatdar of the concerned Taluka

OFFICER IN CHARGE
LAND RECORDS
VIDE GOVERNMENT ORDER
26/1/2011 RD/7 61
dated 22/10/2011
eGNX Infocom Private Limited
Date of Issue 29/10/08
Place Panaji Goa

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
GOA BENCH, AT PANAJI.

WRIT PETITION NO. 136 of 2008

Rama Ladu Velip & ors. ..Petitioners

v/s

State of Goa and ors ..Respondents

AFFIDAVIT OF THE GOA FOUNDATION

I, Dr. Claude Alvares, Secretary, Goa Foundation, do hereby solemnly affirm as under:

1. I am filing this affidavit to bring on record in the writ petition copy of the letter written by the Goa Forest Department to the Ministry of Environment and Forests dated 24.09.2009 which is at ***Annexure A***. This letter confirms:

a) No application has been made by the Respondent for clearance under the Forest Conservation Act, 1980 for the area on the lease identified as forest.

b) In addition to the area identified as private forest by the State Level Expert Committee, there is also Government forest land, notified under Section 4 of the Indian Forest Act, present on the said lease, for which again no clearance as required under the FCA, 1980 has been obtained.

Solemnly affirmed this,
the day of November 2009

Deponent

Annexure A

GOVERNMENT OF GOA
Office of the Chief Conservator of Forests
Forest Department
Panaji, Pin 403 001
Ph:- 0832-2224747, 2421414. Fax: 0832-2224747

No. 6-(307)-FD-2008-09/3100
Dated: 24.09.2009

To,
The Director General of Forests (FC)
Government of India,
Ministry of Environment and Forests,
Paryavaran Bhavan,
C.G.O. Complex, Lodhi Road,
New Delhi – 110 510

Sub: Writ Petition No. 136/2008 and 722/2008 in the matter of Goa Foundation V/s State of Goa

Sir,

I am directed to refer to your office letter No. L-11011/3/2009.IA-II(M) dated –/09/2009 on the subject mentioned above and to inform that the criteria for identification of forest areas outside the government forests has already been sent to the Ad. D.G. Forests, yesterday vide our letter No. 10/557(17)/ID/09-10/102/3051 dated 23.09.2009 and it is further to furnish the detailed additional information as mentioned below:-

A. Writ Petition No. 136/2008 refers to T.C. No. 6/49.

1. No. The Lease comprises of part of survey numbers 42, 43, 44, 45, 46, 54, 55, 56, 57, 58, 59, 67, 68 and full survey number 69 & 70 of Colomba village. Out of the total area of the lease i.e. 74.19 ha., an area of 1.83 ha. (survey no. 57 of Colomba village) is Government forest and has been notified under Section 4 of IFA. Survey No. 57 (part) i.e. 1.83 ha. and Sy. No. 68 (part) i.e. 27. 2872 ha. having a total area of 29.3172 ha. of Colomba village have been identified as private forest.
2. The area was inspected by State Level Expert Committee on private forest which has identified only above mentioned survey numbers as private forest as they were 'forest' in nature based on the criteria specified.
3. This is not a plantation.
4. No application for clearance under F(C)A has been received by the State Forest Department. Hence the question of status of application does not arise.

It is further to inform that no mining activities are being carried out in survey No. 57(p) & 68(p), which are forest.

B. Writ Petition No. 722/2008 refers to T.C. No. 1/5-1

1. No. The lease comprises part of survey Nos. 1, 6, 7, 11, 12, 13, 14, 15, 16, 19, 53 & full survey No. 10 of village Caurem, Taluka, Quepem, South Goa District having total area of 83 ha. of which an area of 24.376 ha. is Government forest i.e. survey No. 19 (part) of Caurem village of Quepem Taluka.
2. Only 24,376 ha. in survey no. 19 (part) is Government forest.
3. No private plantation or other area has been identified as forest.
4. No application for clearance under F(C)A has been received by the State Forest Department. Hence the question of status of application does not arise.

It is further to inform that no mining activities are being carried out in survey No. 19(p) of Caurem village which is forest.

Yours faithfully,

(D.N.F. Carvalho)
Dy. Conservator of Forests
Monitoring & Evaluation